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Chairman: Mr. MIKULKA (Czechoslovakia)

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The meeting was called to order at 10.10 a.m.

AGENDA ITEM 138: UNITED NATIONS DECADE OF INTERNATIONAL LAW (continued) (A/45/430 and Corr.1 and Add.1-3, A/45/666; A/C.6/45/L.5)

1. Mr. JASUDASEN (Singapore) said that the report of the Working Group on the United Nations Decade of International Law (A/C.6/45/L.5) represented a remarkable achievement. When the Working Group had begun its task, there had been little agreement among its members, and the final outcome of the exercise had been in doubt. While the report was certainly less than perfect from the point of view of many States, it was generally acceptable, and his delegation, for one, could support it. Much of the credit for the document, which contained a viable master-plan for the United Nations Decade of International Law, was due to the Working Group's Chairman, Mr. Vukas.

2. A point on which all members of the Sixth Committee were agreed was that international law could help to resolve many of the problems on the international agenda. It had to be recognized, however, that international law was and remained the privileged domain of its practitioners - international lawyers, diplomats and experts in international affairs - who formed an élite within the élite of each society. The master-plan proposed by the Working Group had been devised by members of that super-élite.

3. His delegation approached the Decade from the standpoint that the real problem was not dearth of international law but lack of implementation. Members of the Sixth Committee, most of whom were lawyers by training, naturally tended to believe that most problems, especially transnational ones, could be solved by new, more explicit or more comprehensively drafted law; yet there were good reasons for believing that such an approach, evidence of which was scattered throughout the report, was doomed to failure. The first such reason was that, as history showed, lawyers and law-makers could never work quickly enough to close the gap between law and reality; a second, also borne out by historical evidence, was that the adoption of an international agreement did not automatically mean respect for and implementation of the principles contained therein.

4. The unequal spread of international law across the world had led to very serious consequences. It was not a coincidence that the developed countries of the North, with their greater share of international lawyers and experts, had succeeded in avoiding open military conflict since the Second World War, while the developing countries of the South, which suffered from a grievous shortage of such experts, had during the same period seen more conflicts than ever before in modern history. To purchase sophisticated weapons in the international market-place was easier than to obtain the advice of international lawyers. The current Gulf crisis was a classic example of that truth. While welcoming some of the efforts that would be made during the Decade in order to redress those shortcomings, his delegation felt that greater attention needed to be focused in that area.

(Mr. Jasudasen, Singapore)

5. Many of the proposals incorporated in the Working Group's master-plan were a matter of experts talking to other experts, and did not represent the bold and imaginative change of approach that was called for if the Decade was to have any real impact on international relations. To put it simply, the first reaction of many Governments when faced with an international dispute was to summon their generals and colonels. The Decade's main objective should be to transform that situation into one in which, whenever and wherever a dispute between two or more States arose, the first reaction of the leaders of those States would be to ask what international law had to say about the matter, and demand to see their international lawyers. In that respect, the Decade offered a rare opportunity for gaining converts to the cause of international law. Two examples were relevant in that connection. The first was the story behind the play Lysistrata by Aristophanes, in which the women of two countries on the brink of conflict succeeded in stopping their men from going to war by the simple expedient of denying their husbands what they most wanted, namely, their conjugal rights. The second was the extraordinary success of the environmentalist movement, which, from being consigned to the lunatic fringe 20 years earlier, had become the rallying-point for the world's moral majority today.

6. Some important lessons could be learned from that dramatic reversal of attitudes. The environmentalists had achieved success by popularizing their cause and by appealing to the self-interest of individual voters, thus forcing political leaders to take notice. Similarly, the Decade's primary objective should be to market international law like a consumer product to the public at large, making extensive use of the print and electronic media in the process. Simply written books on international law, including comics to be used in teaching children, as well as computer programs for the layman, could be written and widely distributed; films could be made on the subject, and, as had been suggested during the Working Group's meetings, emphasis could be placed on university courses on international law. Such measures at the domestic level should be matched by articles in the international media focusing on the need for compliance with international norms and reinforcing institutional and systemic efforts. A whole "culture of shame" should be built round the notion of non-compliance; at the United Nations, for instance, defiant nations should be ostracized, criticized and generally brought under pressure.

7. The target audience for such activities should be the policy-makers and opinion-leaders in the political, social and economic arenas of all societies, who should make compliance with international law a domestic political concern, forcing Governments to respect international law in the conduct of international relations and to strive for peaceful settlement of disputes through the good offices of eminent persons, consultation, conciliation, arbitration or recourse to the International Court of Justice. Last but not least, such key individuals should take up the question of the large number of unratified conventions languishing in the depositories of various foreign ministries.

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8. Mr. KOURULA (Finland) said that when his delegation had joined the sponsors of General Assembly resolution 44/23 on the United Nations Decade of International Law, it had done so with some concern regarding the lack of a substantive programme, a fact which of course had reflected the tentative and divergent nature of the views expressed in informal discussions on the topic during the forty-fourth session of the Assembly. Although there seemed to be wide agreement on the need to stress the importance of international law, that had not been accompanied by an equal measure of agreement on which part of the substantive law should be highlighted or developed further.

9. It seemed that the programme for the Decade would either be the object of political quarrels due to diverging preferences, or that it would have to be formulated in such general terms as to render it practically meaningless. Nor were his delegation's doubts wholly dispelled by the Secretary-General's report containing the replies of Governments (A/45/430 and Corr.1 and Add.1-3). While noting the clear and honest commitment on the part of countries to the strengthening of international law, Finland considered that the proposed measures were of such variety that it did not seem easy to visualize where the discussions would lead. The report of the Working Group on the United Nations Decade of International Law (A/C.6/45/L.5) had produced a programme for the Decade which was neither excessively ambitious nor too modest. It recognized that any measures taken to strengthen international law must be decided only after a careful study of the possibilities for realistic action. It recognized the imperative need for close co-operation between the Sixth Committee and the other organs of the United Nations, its specialized agencies and other relevant organizations, while highlighting the leading role of the General Assembly itself.

10. The programme emphasized the need to support academic and professional institutions working in the field of international law, and to create new ones where needed. Wisely, the programme did not assume that the United Nations itself would be the focal point of supportive measures; the emphasis would be on national and regional action, in accordance with local needs. With that aim in view, his Government had already increased its financial support to certain projects involving teaching and publishing materials in international law which would be carried out in Finnish law faculties. It was hoped that other countries would consider similar measures.

11. The programme for the first two years of the Decade might not meet all the expectations of States or academic and professional communities, but that did not necessarily reflect any failure on the part of the Sixth Committee or its Working Group. Much of the relevant substance of universal international law was already codified, and progressive development was already under way in many specialized organizations. It should be added that in many cases a regional or functionally limited approach would be easier to manage and would lead to more effective standards than a global approach.

12. His delegation believed that the codification of the rules of international law, and the establishment of meaningful and effective mechanisms for the peaceful settlement of disputes should not be undertaken without a fair expectation that the

(Mr. Kourula, Finland)

result could be a success. Sections II and III of the draft programme (A/C.6/45/L.5, annex I) were therefore correctly formulated, and provided for the necessary reports and studies, while leaving open the question of what action the Assembly might wish to take at a later stage. It was anticipated that States themselves would arrive at realistic and well-prepared proposals which would be subsequently included in the programme.

13. Mr. TRAXLER (Italy), speaking on behalf of the 12 States members of the European Community, said that the Twelve had all co-sponsored General Assembly resolution 44/23 declaring the period 1990-1999 as the United Nations Decade of International Law. Although the Decade had been proclaimed without a programme, the Twelve had considered that the idea was so important that it should not be deferred, and had been confident that the Sixth Committee, working by general agreement, would be in a position to elaborate a programme for the Decade at the forty-fifth session of the General Assembly. That drawing up a programme would not be an easy task had become clearly apparent with the issuance of the document containing the responses of a number of States and international organizations to questions formulated by the Secretariat in accordance with paragraph 3 of the resolution. The replies indicated many subjects of interest, but offered practically no concrete ideas on how a sequence of feasible and generally acceptable activities should be organized within the Decade. However, the Sixth Committee had been fortunate in entrusting the chairmanship of its Working Group on the Decade to Mr. Vukas of Yugoslavia, who, combining remarkable academic and diplomatic skills, had succeeded in steering the Working Group in such a way that, in only a few weeks of meetings, it had moved from a collection of non-homogeneous and often controversial proposals to a realistic and widely acceptable programme of activities to be started during the first two years of the Decade.

14. The fact that the Decade would encompass a series of diverse activities aimed at strengthening the role of international law was not, in the view of the Twelve, a matter for regret. The decision to declare the Decade was in itself a sign that, in the opinion of the overwhelming majority of States, the time was ripe for the adoption of many co-ordinated initiatives. True, the programme proposed in the Working Group's report (A/C.6/45/L.5) covered only activities to be commenced during the first term (1990-1992) of the Decade, but new projects might still be decided upon and developed, and, given suitable conditions, even major endeavours remained possible.

15. The Twelve looked forward to the activities which various entities invited to contribute to the Decade would undertake. They were confident that the Institute of International Law, the International Law Association and the Hague Academy of International Law would enrich the Decade with their experience and wisdom. They also expected the International Law Commission to contribute to the Decade, more especially by completing work on the topics at present on its agenda. They had taken due note of the readiness of various other international institutions, and in particular of the International Court of Justice, to make contributions to the Decade. It should not be forgotten, however, that primary responsibility for the Decade fell on the Sixth Committee and its Working Group, as well as on the Special

(Mr. Traxler, Italy)

Committee on the Charter. At the present juncture, the Twelve wished to express appreciation of the way in which the Secretariat had prepared the basic documents, thus enabling the Sixth Committee to make a positive start.

16. The Twelve were ready to participate actively in the initiatives for the Decade as developed in the programme, and, confident that the spirit of flexibility, mutual understanding and decision-making by general agreement shown by the Working Group would be maintained, looked forward to the beginning of substantive activities.

17. Mr. AUST (United Kingdom) said that despite two devastating world wars, international law and respect for it had grown steadily during the twentieth century's first 90 years. That progress was vividly illustrated by the world community's response to Iraq's invasion of Kuwait. The reaction of the United Nations to the challenge to the authority of the Security Council had been vastly different from that of its predecessor, the League of Nations, to similar acts of aggression in the 1930s. The world community had shown its determination to make international law its means of ensuring the rule of law, without which there could be no international peace and security.

18. As the representative of Singapore had suggested in his thought-provoking statement, there were many ways in which the United Nations Decade of International Law could help to create the political will without which resolutions, declarations and conventions were doomed to become dead letters. It was essential to make Governments - for it was Governments, not people, that committed acts of aggression - more aware of the advantages to themselves in acting lawfully and settling disputes by peaceful means. Governments did not have to be made aware of their legal obligations but, rather, to be convinced that observance of the law and peaceful settlement of disputes served their best interests. They had to be made to realize that attempts to settle disputes between States by the use of force were not only illegal, but also enormously wasteful in terms of direct costs, loss of human life and damage to society, to the economy and to international stability. The cost of going to law often complained of by private individuals was little compared with that of waging aggressive war.

19. His delegation was greatly encouraged by the increasing number of States which had accepted the compulsory jurisdiction of the International Court of Justice. Of the six States which had made the necessary declaration in the past two years, four were developing countries. As the only permanent member of the Security Council always to have accepted the compulsory jurisdiction of the International Court of Justice and of its predecessor, the Permanent Court of International Justice, the United Kingdom wished to urge all States which had not yet accepted the Court's compulsory jurisdiction to consider doing so, and also wished to encourage those which had not yet contributed to the Secretary-General's Trust Fund for the Court to do so. It was particularly pleased to note that many developing countries had made contributions to the Trust Fund, and enjoined more developed countries to do so as well. By practical means of that kind, international law could be made more directly relevant to the solving of problems.

(Mr. Aust, United Kingdom)

20. Another means of achieving that end was through education in international law - not so much general education of the population at large, but education and training of staffs of foreign ministries and other officials dealing with relations between States. His delegation warmly supported the inclusion of activities along those lines in the programme prepared by the Working Group. Within his country's extensive scheme of scholarships and awards for foreign students, increasing emphasis was being given to the award of scholarships for the study of law, and especially international law, at the post-graduate level. In addition, his Government also supported each year a course in London designed particularly for government legal advisers from other countries. Details concerning the course and funding were circulated each year by the United Kingdom Mission to the United Nations. He was pleased to note that several participants in the most recent courses had been members of missions to the United Nations or had heard of the course through those missions. The next course was to begin in January 1992, a timing which would make it easier for members of missions to the United Nations to attend it.

21. Yet another way in which the programme for the Decade could produce concrete results was by identifying those areas of international law, including areas already codified, which needed to be developed further. Sometimes the area might be narrow, but it could still involve a problem of general importance. In some cases the issue would best be considered by bodies such as the International Law Commission, or even by non-governmental bodies. His delegation believed that it had identified such an area, and regretted that a decision to ask the Commission to study it had not been taken at the present session. It was to be hoped that other delegations would reflect on the matter before the next session.

22. In conclusion, he remarked that a common aim for the Decade might be to keep statements on all items on the Committee's agenda short and to the point.

23. Mr. APRIL (Canada) said that the first objective of the United Nations Decade of International Law should be to enhance the implementation of existing law, rather than to develop new rules. The Decade should result in the improved acceptance and implementation by States of their basic international legal obligations, particularly with respect to human rights and the fight against terrorism.

24. Despite the existence of a comprehensive and impressive system of human-rights law - from the Universal Declaration of Human Rights, much of which constituted customary law binding on all States, to the Optional Protocol to the International Covenant on Civil and Political Rights, which recognized the right of the individual to petition an expert international committee - often nothing was done when the most heinous violations occurred or when a State was guilty of killing a large number of its own innocent citizens. Frequently, none of the existing mechanisms were used to deal with such grievous violations and, within the United Nations, there often was not even a forum where such issues could be raised on an urgent basis. A concerted effort should be made during the Decade to ensure that serious cases could be dealt with at short notice within the United Nations

(Mr. April, Canada)

system. His delegation had encouraged inter-sessional meetings of the bureau of the Commission on Human Rights for that purpose. Extraordinary meetings of the Economic and Social Council, attended primarily by representatives resident in New York, would be another suitable means to indicate that very serious violations of internationally agreed norms would not be ignored.

25. In the case of terrorism, as well, violations of broadly accepted legal norms contained in anti-terrorism conventions were too often ignored. Better use should be made of the Council of the International Civil Aviation Organization to report breaches of international civil aviation conventions.

26. While the focus during the Decade should be on ensuring respect for existing law, environmental protection was one field in which the progressive development of new instruments should be encouraged. States must, as a matter of urgency, elaborate new rules of law to ensure the preservation of life on Earth; no longer was it enough only to seek to improve environmental quality.

27. The other major objective of the Decade was to encourage recourse to machinery for the peaceful settlement of disputes. As the current international situation demonstrated all too well, the use of force to settle disputes between nations occurred too frequently. The Decade should serve as an occasion to reaffirm the purposes and principles of the United Nations Charter through the strengthening of the authority of the Organization and the Security Council, particularly with respect to the settlement of disputes and the maintenance of international peace and security. States should be encouraged to bring cases before the International Court of Justice and to accept the Court's compulsory jurisdiction.

28. In addition to the Court, States had available to them a wide range of dispute-settlement mechanisms which were either underused or simply not used at all. The Permanent Court of Arbitration had at its disposal a standing list of jurists from which a panel could be chosen according to the type of dispute. Other bodies had elaborated highly detailed procedures to handle potential conflict situations, and the United Nations itself provided a variety of forums and mechanisms, from fact-finding to binding arbitration.

29. His delegation wished to suggest that the GATT procedures could act as effective models which were actually in use and which should be looked at more closely in the case of disputes beyond the commercial sphere, as they involved compulsory panels which provided recommendations to States in cases in which differences arose. Such recommendations might be negotiated and adjusted by the States concerned in order to obtain agreement: the right to take proportionate retaliatory action was permitted only if negotiations failed. In conclusion, his delegation fully supported the report of the Working Group, and particularly welcomed the fact that priority in the programme for the first stage of the Decade had been accorded to enhancing respect for the existing rules of international law, and recourse to the established machinery for the peaceful settlement of disputes. His country would continue to respect the obligations it had undertaken in regard to human rights and the struggle against terrorism. On the basis of more

(Mr. April, Canada)

widespread education in the field of international law, the international community, and individual Member States, would succeed in living in peace and security.

30. Mr. MOGENSEN (Denmark), speaking on behalf of the Nordic countries, said that in view of the fact that the draft programme for the activities to be undertaken during the first three years of the Decade had not yet been adopted when the Decade had been launched, it was indeed an accomplishment that delegations could now look forward to substantive discussions on the basis of studies and documentation from international, national and non-governmental legal institutions. The Nordic countries looked forward to making their contribution to the Decade.

31. Mr. ALVAREZ (Uruguay) said that his delegation, in considering what concrete results could be expected of the United Nations Decade of International Law, viewed international law as a framework of norms applicable to international society. Given the complexity of that society, which was a function of the existence of so many political, ethnic and cultural differences and of imbalances in the levels of development of rich and poor countries, it was extremely difficult to determine what norms should prevail. The Decade should provide an opportunity to clarify those norms, and should give impetus to the codification efforts of the United Nations and to the revitalization of mechanisms for the peaceful settlement of disputes, particularly with respect to the role of the International Court of Justice.

32. The draft programme prepared by the Working Group for the first term (1990-1992) of the Decade was disappointingly lacking in detail, a situation which could be attributed to uncertainty as to the availability of funding. However, unless resources were allocated under the regular budget of the United Nations to carry out the activities of the Decade, the Decade would fail to meet the expectations placed in it. Voluntary contributions generally proved inadequate in such situations.

33. His delegation was particularly dismayed that the draft programme did not include a number of specific topics and activities suggested by Member States, and that there was no direct reference to the long-term plans envisaged for the Decade.

34. His delegation attached particular importance to the encouragement of the teaching, study, dissemination and wider appreciation of international law, dealt with in section IV of annex I to the Working Group's report (A/C.6/45/L.5). It was in that area, particularly through technical and financial assistance to the developing countries, that the most immediate positive results would be achieved. The training of professionals in international law was perhaps one of the most important tasks to be tackled during the Decade. Training activities such as those called for in section IV, paragraph 5, would facilitate the work of officials confronted with conflicts between norms of international law and internal law. Specialized bodies such as the United Nations Institute for Training and Research and the Hague Academy of International Law could provide valuable assistance in preparing the training courses, which ultimately could be adapted to the needs of each country.

(Mr. Alvarez, Uruguay)

35. Consideration also should be given to broadening the impact of international-law training courses by sending specialists to various regions so that they could present their courses to a wider audience, instead of increasing the number of scholarships made available for such courses. His country had had positive experience with such arrangements through technical co-operation agreements with United Nations bodies. The Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law should consider strengthening that type of technical co-operation machinery.

36. With respect to section V, paragraph 4, of the draft programme, his delegation felt that the establishment of the recommended committees would facilitate the co-ordination of national efforts and activities carried out by international bodies, particularly those concerned most directly with the Decade.

37. In conclusion, he emphasized that the success of the Decade ultimately would depend on the willingness of States to recognize that the cause of international law was also the cause of peace, co-operation and international security.

38. Mr. THAHIM (Pakistan) said that his country believed in the primacy of international law and was firmly committed to the principles enshrined in the United Nations Charter. It considered that the Working Group on the Decade had successfully concluded a broadly acceptable draft programme for the activities to be commenced during the first term of the Decade.

39. With the end of the cold war had come a growing recognition within the international community of the importance of settling disputes through peaceful means, and States were increasingly turning to the United Nations for assistance in solving regional and international problems. The situation had never been more conducive to the promotion of greater respect for the principles of international law and its progressive development and codification.

40. Referring to paragraphs 2 (a) and 2 (b) of General Assembly resolution 44/23, he said that his delegation was open to various means for the peaceful settlement of disputes, such as the use of good offices, negotiations, mediation, conciliation, arbitration, judicial settlement, and increased recourse to court mechanisms such as those of the International Court of Justice. Pakistan welcomed the wider acceptance of the compulsory jurisdiction of the Court, and the increasing trend on the part of States to withdraw reservations with respect to treaty clauses providing for the compulsory jurisdiction of the Court. That showed the increased willingness of States to be bound by the rules of international law. States should also be encouraged to seek advisory opinions from the Court on the legal aspects of disputes. The Secretary-General's initiative in establishing a trust fund to help developing countries utilize the services of the Court was an important step towards ensuring wider access by States to that institution.

41. With respect to section IV of annex I to document A/C.6/45/L.5, while his delegation agreed that existing training institutions should be supported, it felt

(Mr. Thahim, Pakistan)

that special emphasis should be placed on encouraging the establishment of such institutions in the developing countries. The importance of promoting greater public understanding of international law could not be over-emphasized. He endorsed the suggestions in section IV, paragraph 4, and suggested that students, professors, lawyers and foreign ministry personnel should be given university scholarships in international law. Judges should be invited to attend as well.

42. The programme for the Decade also should focus on strengthening international peace and security and ushering in a progressive and just world order. Disarmament must receive the due attention of the international community in that context. His delegation hoped that the dialogue between the two major nuclear Powers would lead to a substantial reduction in, and the eventual elimination of, nuclear weapons. Regional approaches to disarmament complemented global efforts, and the two should be pursued simultaneously.

43. The progressive development of international law should proceed in such a manner as to facilitate human development within the framework of a just international order. Drawing attention to various negative features of the economic environment affecting the developing countries, he said that underdevelopment and economic disparities among States were major contributors to social and political instability, and had adverse consequences for international peace and security. Accordingly, attention should be paid, in the context of the Decade, to resolving international economic problems, particularly those of the developing countries.

44. Ms. DOWSETT (New Zealand) said that the Gulf crisis had underlined the need for the rule of law in maintaining peace and security, a recurrent theme of discussions at the current session of the Sixth Committee. As the Decade of International Law began, recent events had accentuated the need to ensure respect for international law, and to promote the peaceful settlement of disputes.

45. A great number of ideas for the programme for the Decade had been discussed in the Working Group, but in considering possible activities, delegations must bear in mind that the United Nations, like many individual Governments, was subject to budgetary constraints. It was therefore appropriate to focus on those activities which were both concrete and meaningful.

46. In the context of promoting the peaceful settlement of disputes, her delegation endorsed the establishment of the Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice as a practical and important measure. New Zealand had been happy to make a significant contribution to the Fund earlier in 1990.

47. Her delegation also attached importance to the topic of the teaching, study, dissemination and wider appreciation of international law (section IV of the programme for the Decade (A/C.6/45/L.5, annex I)). It agreed with the view expressed in the Working Group that that was an area in which practical steps could be taken quickly. In observance of the Decade, her Government had made a

(Ms. Dowsett, New Zealand)

substantial contribution in 1990 to the scholarship fund set up in memory of Professor Quentin-Baxter, a former New Zealand member of the International Law Commission.

48. States also had an important role to play in promoting international law and legal training through co-operation with, and assistance to, States in their regions or in other regions, which might not have the same level of resources available to them. Her delegation noted that paragraph 3 of section I of the programme encouraged States and international organizations to provide assistance and technical advice to States, in particular to developing countries, to facilitate their participation in the process of multilateral treaty-making, including their adherence to and implementation of multilateral treaties.

49. In 1990 New Zealand had also announced the establishment of a $20,000 fund to sponsor attendance by South Pacific lawyers at the International Law Seminar in Geneva in June 1991.

50. Activities should concentrate on topics of general relevance and importance, and duplication of work should be avoided. It was to be hoped that the Decade would provide an appropriate focus for the development of international law in addressing global environmental issues and the elaboration of appropriate environmental-protection measures.

51. Mr. ELIASSON (Sweden) said that the United Nations had risen to the defence of one of its Members subjected to flagrant violations of the Charter, and that there were now real prospects that international law, as embodied in the Charter, would fulfil its inherent role of safeguarding international peace and security by replacing the law of force by the force of law in inter-State relations.

52. For the majority of States, assuring respect for international law was the primary means of safeguarding their independence and sovereignty, and his Government accordingly attached the highest importance to the adoption by the General Assembly of its resolution 44/23 on the Decade of International Law.

53. Many constructive ideas had been put forward during the preparation of the Programme for the Decade, which contained a request for a report by the Secretary-General on the international legislative work currently being performed within the United Nations system. Such a report could serve as a useful tool for co-ordinating work on international legal issues in individual States: it should not, however, be too detailed or extensive, since the primary goal would be to arrive at a document that could be used within the Sixth Committee and in the planning of international legal work within the relevant ministries in Member States. Its format, in his delegation's view, should be the responsibility of the Secretary-General.

54. While it was desirable that progress should be made in the codification of international law, the Decade should not merely provide an opportunity of laying new obligations on the Sixth Committee, the International Law Commission and other

(Mr. Eliasson, Sweden)

United Nations bodies. Due account should be taken of the substantial volume of international law, both customary and codified, which had already been developed. If existing law was fully respected and if more States would accept the compulsory jurisdiction of the International Court of Justice, the situation in many parts of the world would indeed be quite different, and an important contribution would be made to the concept of the rule of law.

55. The Nordic countries had strongly emphasized that, in order to promote the aims of the Decade, one of its corner-stones must be respect for the rule of law at the national level, and Governments should therefore bear in mind their obligations under the international treaties to which they were parties.

56. In that connection, it was regrettable practice to use general references to national sovereignty as a reason for not adhering to international commitments: to enter into such agreements was to exercise sovereignty by making use of a State's right to commit itself, both for the common good of the international community, but also in its own interest.

57. His delegation regarded the informal consultations which had taken place at United Nations Headquarters between a number of heads of departments responsible for international legal services of the ministries of foreign affairs of Member States of the United Nations as being of great importance, and they should, in his delegation's view, continue, on the understanding that their aim was to strengthen the role of the Sixth Committee and, in the wider sense, that of international law. They could, moreover, serve as a means of establishing closer personal contact between the participants.

58. Stress should also be laid on the importance of law as an academic discipline, particularly in the law faculties of universities, and it was important to ensure that financial resources were available to ensure awareness of the Decade of International Law. He noted that the programme for the Decade included provision for a special trust fund. The various other ways in which States could best contribute to the realization of the aims of the Decade might be discussed. Sweden was prepared to make its contribution by offering opportunities for lawyers from developing countries to participate in special courses on international law organized by the law faculties of its universities.

59. In conclusion, he said that the Decade of International Law should lead to a wider and deeper acquaintance with international law at the national level. The outcome of the Decade would be of great significance for the capacity of the United Nations to perform its vital functions in the field of international peace and security in the post-cold-war era. The primacy of international law, as expressed in the aims of the Decade, must be the guiding principle in confronting that challenge.

60. Mr. SUPHAMONGKHON (Thailand) said that 1990 had marked the end of the cold war and opened the way to renewed efforts by the international community to strengthen and comply with international law and to resort to it in the settlement of international disputes. With the eruption of the Persian Gulf crisis, the international community had reacted swiftly, taking decisive actions which had been fully in accordance with international law and the Charter of the United Nations. That augured well for the United Nations Decade of International Law.

61. The Gulf crisis had underscored two vital points, namely, that law enforcers must ensure that their methods were consistent with the law, and that the United Nations should be utilized fully to maintain international peace and security.

62. The idea that the United Nations should play a role in diplomacy was very timely. It was with that intention that his Government in 1986 had proposed the creation of a United Nations early warning system for the prevention of regional conflicts. It had contemplated the establishment of a United Nations mechanism to monitor global situations likely to develop into a crisis which threatened international peace and security. He therefore welcomed the establishment in 1987 of the United Nations Office for Research and the Collection of Information and was confident that it would contribute to the effectiveness of the United Nations.

63. During 1990, the United Nations had ventured into the area of election supervision as an integral part of its peace-keeping operations. As the Organization might take further steps in that direction in the future, its role in the administration of elections, as well as in the administration of a sovereign State, was currently under discussion.

64. As a complement to the enhanced role of the United Nations, the international legal system should be strengthened, and respect for international law must be encouraged, in as many ways as possible. Currently, there were numerous multilateral treaties which were relevant to the progressive development and codification of international law. Universal acceptance of those treaties would strengthen the international legal system; however, that was not an easy task, as the varying and sometimes contradictory interests of States must be accommodated. The question of reservations would be important and could determine whether or not a particular State would become a party to a multilateral treaty. It would therefore be useful to invite the International Law Commission to study the legal effect of objections to reservations to multilateral treaties.

65. Full compliance with the decisions of the International Court of Justice was another important goal. The Sixth Committee should be a forum for proposals by States on means of achieving that objective.

66. Education must be an integral part of the programme for the Decade. Special emphasis should be given to the research and training aspects of education. Training courses should be available in wide areas of international law, including both public and private law. New areas, such as intellectual property, electronic funds transfers and international taxation should also be included. Scholarships and fellowships should be readily available for candidates from all countries, especially in the developing world.

(Mr. Suphamongkhon, Thailand)

67. The holding of seminars, symposia, workshops and formal training courses in international law should be encouraged. The United Nations and universities in developing countries should be encouraged to initiate joint programmes to provide training in international law.

68. In considering the various activities proposed for the Decade, he wondered whether it would be helpful to divide them into national and international categories. States should retain flexibility in carrying out national activities, while those in the latter category would require international co-ordination. In addition, further attention should be given to the question of funding. A mid-term review of the progress of the programme for the Decade would also be very useful.

69. Mr. FUKUKAWA (Japan) said that his country had welcomed the adoption by consensus of General Assembly resolution 44/23 proclaiming the United Nations Decade of International Law. The basic structure of the post-war international community had changed dramatically in the past year. International law had an ever greater role to play in relations among nations. In order to establish a peaceful international community based on the rule of law, it was essential to promote understanding among States as to the importance of respecting the norms of international law. Accordingly, it would be of great significance if the United Nations focused on the teaching, study, dissemination and wider appreciation of international law and the peaceful settlement of disputes between States as themes of the Decade.

70. In contrast to domestic law, there were few cases in which an individual could be the subject of international law. Nevertheless, in promoting respect for international law on the part of States, it was essential to enhance understanding of the importance of international law on the part of their nationals. In promoting a wider public appreciation of international law, it might be helpful to select those laws which were fundamental. In his view, the Charter of the United Nations was the most fundamental international law governing international society, and it deserved to be widely appreciated by those who would constitute its members in the twenty-first century.

71. In order to strengthen public awareness and understanding of the Charter, the United Nations could consider upgrading its public information materials and, if possible, preparing new ones. For example, it might produce a manual on the fundamental points of international law, including a brief commentary on such basic instruments as the Charter. It might also be a good idea to conduct surveys at the beginning and the end of the Decade in order to ascertain the level of public understanding of international law.

72. At a higher level, it might be useful to draw up a list of the principal treaties in each of the major fields. Each year of the Decade could be assigned a specific priority, such as promoting the Charter, human rights law, and the law of the sea.

(Mr. Fukukawa, Japan)

73. It would be advisable to examine the concrete programme of work during the Decade within the framework of the Working Group and the Committee. For example, the Working Group could be convened every two years to review the progress of work and set an agenda for the following biennium. Furthermore, attention should be paid to avoiding a duplication of effort within the United Nations and other international organizations. The Committee's role as a co-ordinator in that regard should be emphasized.

74. Mr. GUNEY (Turkey) said that his delegation had welcomed from the outset the initiative taken by the Movement of Non-Aligned Countries emphasizing the need to strengthen the principle of the primacy of law in international relations, which had led to the adoption by consensus of General Assembly resolution 44/23. The adoption of that resolution had underlined the greater awareness among States of the growing importance of the promotion of and strict respect for international law. Furthermore, the unanimous support for the declaration of the United Nations Decade of International Law had demonstrated the importance that the United Nations attached to the progressive development of international law and its codification. The declaration of a decade of international law was a timely initiative that could give renewed impetus to an extensive exchange of views on both current and future tasks in the field of international law, as well as to the progressive development of international law and its codification.

75. Recognizing the key role that international law should play in relations between States, the Assembly had set in motion an accelerated process of codification of law and its progressive development. Genuine progress had been made as a result of the multilateral agreements adopted on the basis of the major efforts undertaken by United Nations legal organs such as the International Law Commission and the Sixth Committee. Among the fields in which co-operation between States and solutions based on international law was called for was above all international protection of the environment, action to combat terrorism and drug abuse control. Such universal problems could be solved only with support from all States. The principle of the adoption of decisions by consensus upheld in the negotiations on General Assembly resolution 44/23 must also be applied in all preparatory phases and in the implementation of the programme of action for the Decade.

76. With regard to the draft programme for the activities to be commenced during the first term (1990-1992) of the Decade, Turkey supported the idea of carrying out activities designed to facilitate international co-operation with a view to strengthening international law; promoting acceptance of and respect for the principles of international law; promoting means and methods for the peaceful settlement of disputes; encouraging the progressive development of international law and its codification; and encouraging the teaching, study, dissemination and wider appreciation of international law. The international community must also reaffirm that the fulfilment by States in good faith of their obligations under international law was the way to prevent disputes. Among the purposes that it must achieve, the Decade must strengthen multilateral diplomacy and co-operation, enhance the effectiveness of international law in international relations, draw the

(Mr. Guney, Turkey)

attention of States to the need to fulfil their obligations under international law, and reaffirm the principles and basic norms of international law.

77. Mr. MOMTAZ (Islamic Republic of Iran) said that the draft programme for the activities to be commenced during the first term of the Decade was satisfactory as a whole. His delegation noted that the main features of the Decade, as outlined in General Assembly resolution 44/23, had been developed considerably. The proposed programme represented a compromise achieved with great difficulty and therefore could not meet the requirements of all delegations. None the less, the programme was sufficiently flexible to allow States to continue to make proposals regarding action that could be taken under the Decade or to explore certain issues further.

78. With regard to section I of the comprehensive list of suggestions set out in annex II to the Working Group's report, concerning promotion of the acceptance of and respect for international law, his delegation wished to emphasize once again the importance of the principle of non-use of force, which had been stressed repeatedly in connection with the events in the Persian Gulf, many delegations having underlined the need to take appropriate action to maintain international peace and security. Today there were still many instances of acts of aggression that were continued with complete impunity. The importance of the maintenance of international peace and security in the context of the Decade could not be overemphasized.

79. The legal arsenal in the field in question was truly impressive. For example, his delegation had in mind Articles 2 and 4 of the United Nations Charter and the Definition of Aggression. Other important texts adopted by the General Assembly that constituted sources of law were the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations. The International Court of Justice was of the view that support for the resolution containing that Declaration could be understood as an acceptance of the validity of the rule or set of rules set forth therein, and that the principle of non-use of force, for example, could thus be regarded as a principle of customary international law, not as such conditioned by provisions relating to collective security, or to the facilities or armed contingents to be provided under Article 43 of the Charter (ICJ Judgment of 27 June 1986 in the case Military and Paramilitary Activities in and against Nicaragua, ICJ Reports, 1986, p. 100, para. 188). The same comment applied in respect of the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations.

80. During the Decade the principle of non-use of force should be developed on the basis of those instruments. It would not suffice yet again to reaffirm well-established principles. Furthermore, the international community should devote particular attention to the causes of the phenomenon of foreign domination in all its forms. It was also necessary to strengthen the peace-keeping capabilities of the United Nations, particularly those of the Security Council. The Security Council's political potential should be considered in that connection. Forms of coercion other than use of force should be studied. There

(Mr. Momtaz, Iran)

too, emphasis should be placed on the relevant declarations adopted by the General Assembly, which should be regarded as a starting-point, on an equal footing with other existing legal instruments, for developing the principle in question. His delegation had in mind the Manila Declaration on the Peaceful Settlement of International Disputes and the Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field.

81. Efforts must be made during the Decade to defuse international tensions. Economic co-operation and disarmament deserved particular attention in that connection. Where disarmament was concerned, it was a question of implementing existing disarmament programmes, particularly those focusing on non-proliferation of nuclear weapons and weapons of mass destruction. In that connection, his delegation wished to draw attention to the work of the Ad Hoc Committee on the World Disarmament Conference on chemical weapons. The international community must redouble its efforts to conclude as soon as possible a convention on chemical weapons that would fill the gaps in the Geneva Protocol of 1925. A successful outcome for negotiations both on economic co-operation and on disarmament would increase confidence among the members of the international community and thus prevent disputes from occurring.

82. With regard to section III of the comprehensive list of suggestions, on encouragement of the progressive development of international law and its codification, his delegation wished to stress the role to be played by the International Law Commission. However, a number of adjustments would have to be made in the Commission's agenda, in order to meet the need to guarantee observance of the principle of non-use of force. His delegation had in mind the establishment of a system for the effective suppression of the use of force at the international level. The highest priority should therefore be accorded to the completion of the draft Code of crimes against the peace and security of mankind. The Commission's work on the topic of State responsibility should also be intensified. On the issue of the Commission's future programme of work, in the selection of topics account should be taken of the need to reduce international tensions. The international community's urgent needs, particularly the most controversial ones, should be given priority during the Decade. In his delegation's view, more attention should be devoted to the studies conducted by the Commission's Planning Group. Moreover, in any endeavour involving the progressive development of international law and its codification account must be taken of the principal legal systems in the world.

83. With regard to section IV of the comprehensive list of suggestions, on encouragement of the teaching, study, dissemination and wider appreciation of international law, his delegation welcomed the Working Group's relevant recommendations, particularly those designed to encourage the teaching of international law.

84. Mr. SHANNON (Australia) said that the Working Group's report (A/C.6/45/L.5) contained a programme for the first biennium of the Decade that met the criteria for projects established in General Assembly resolution 44/23. The programme was ambitious in its aspirations but generally prudent in its approach. A number of the projects would be initiated by a survey of views of Member States and, where appropriate, international organizations. That would place a significant burden on the Secretariat, and delegations should be conscious of that in assigning it tasks in other areas of the Sixth Committee's work in the current year. Member States had also created a responsibility for themselves to respond fully and constructively to the various requests that they would receive from the Secretary-General in the course of the programme for the first biennium. The effort that they put into their responses should, in addition to providing the information base for the Committee's activities, lay the important groundwork for national and regional programmes.

85. The greatest benefits of the Decade would emerge from those national and regional activities. Of course, the General Assembly, principally through the Sixth Committee, would have a key role to play in identifying and filling gaps in the network of régimes that constituted current international law. But the law-abiding behaviour of States was the result of individual decisions of Governments that took account, often in an undefined way, of the value that national communities placed on international law. Member States had before them, in annex II to the report, many ideas to draw on in preparing their national programmes. In that context, they should not overlook the useful role that non-governmental organizations could play. For example, many representatives to the Sixth Committee were members of the International Law Association. Australia had hosted the Association's biennial conference in 1990, and could report that it was keen to be involved in the promotion of the Decade. The preparation of its own programme had been waiting upon the emergence of the Working Group's report.

86. At the international level, the great law-making enterprises of the Decade would be in the environmental area. As the work of the International Law Commission on the subjects of international watercourses and international liability demonstrated, there were difficult legal issues to be dealt with. His delegation wondered whether the major negotiations on environmental conservation that were about to be embarked upon had been adequately factored into the programme of activities. A number of statements made in the debate on the Commission's report had called for that body to play a greater role in the area of environmental law. What was needed, in Australia's view, was a statement of broad principles to guide the negotiators in their work, inter alia, on climate change and biodiversity. The Commission's current report contained much useful analytical material. When looking at the role that the Commission could play in the Decade, Committee members should keep in mind the Commission's expertise in international environmental law and their need of it.

87. Australia was committed to making the Decade a success. It intended to act purposefully at the national and international levels and in governmental and non-governmental arenas. The Working Group's report would be the guidebook for its activities.

88. Ms. PINESCHI (Italy), introducing document A/45/666, to which the conclusions of the Siena Forum on International Law of the Environment were annexed, said that the Forum had been convened by the Italian Government in follow-up to paragraph 47 of the Economic Declaration of the seven most industrialized countries adopted in Paris in July 1989. It had been held at Siena, Italy, with participation by scholars, diplomats and experts from 30 States and eight international organizations. Mr. Carlos Calero Rodrigues (Brazil) had been elected President, Mr. Mohamed Bennouna (Morocco) had chaired the Drafting Committee, and Mr. Alexandre Kiss (France) and Mr. Stephen McCaffrey (United States) had chaired the two working groups set up.

89. The Forum had been provided with an introductory document prepared by a group of Italian jurists, who had availed themselves of the advice of an international committee made up of well-known legal experts from all areas of the world, including members of the International Law Commission and United Nations Secretariat officials.

90. On 21 April 1990, the Forum had adopted by consensus the conclusions set out in the appendix to document A/45/666. Even though the conclusions focused on just one area of international law, for a number of reasons they were of interest in connection with the United Nations Decade of International Law.

91. Firstly, the conclusions might serve as models of activities that Governments could undertake during the Decade in order to promote its purposes. A meeting of experts from universities and from ministries and other official agencies, both political and technical, participating in their personal capacity, would promote understanding, a free flow of ideas and eventual progress in the development of the law in question.

92. Secondly, the conclusions contained an assessment of the status of international law in a particular field and of the gaps in that field. Section III of the draft programme for the Decade proposed such an assessment in more general terms.

93. Thirdly, the conclusions contained references to "treaty and other devices" that could be used to address particular concerns relating to international protection of the environment. Such "treaty and other devices" were designed, in particular, to fill gaps in the international regulation of the environment with regard to the implementation of existing law and problems arising from non-compliance with such law. They included, for instance: mechanisms to promote participation by new parties to multilateral instruments so as to bridge the gap between signature and entry into force and to update treaties quickly; ideas for combining non-binding and binding commitments; reporting requirements; and appropriate use of international institutions. Those were the kinds of problems addressed in section I of the draft programme for the Decade, particularly in paragraph 2. Italy was convinced that the conclusions would be helpful to States, both individually and collectively, in the framework of the Decade.

94. Mr. SENE (Senegal) said that the proclamation of the United Nations Decade of International Law had, above all, been an affirmation of faith in the primacy of law. The positive changes occurring in international relations had created favourable conditions for greater co-operation among nations which up to then had been in conflict. In spite of the Gulf crisis, the use of force in international relations had declined, and new avenues were opening for law as a guarantor of peace and stability. The international community's reaction to the Gulf crisis was the most recent evidence of the role which States assigned to law in the burgeoning new world order.

95. Drawing attention to document A/C.6/45/L.5, to which his country attached special importance, he said that the acceptance of and respect for the principles of international law, as discussed in paragraphs 1 to 4 of chapter I, constituted one of the main goals of the Decade. Over the past 45 years, the international community had concluded a large number of international agreements. It was not the absence of rules of law, but rather the non-observance of existing ones, which was the most serious threat to the international legal system. He emphasized the importance of general principles of law, as defined in Article 38, paragraph 1 (c), of the Statute of the International Court of Justice, as one of the main sources of international law. In that connection, paragraph 1 of section I constituted a declaration of principle which he hoped would be given further detailed consideration.

96. With regard to the peaceful settlement of disputes between States, it was necessary first to consider means of preventing conflicts. At the forty-fourth session of the General Assembly, the Secretary-General had pointed out that the United Nations had not yet fully made use of the possibilities afforded by its Charter for preventing conflicts, and interesting proposals in that regard had been made in his report on the work of the Organization submitted to the General Assembly at its current session (A/45/1). Similarly, interesting ideas had been put forward within the framework of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. The United Nations Decade of International Law offered an opportunity to give concrete shape to those proposals. He hoped that means of preventing conflicts would be given a prominent role in the studies and proposals called for in paragraphs 1 and 2 of section II.

97. The importance of the International Court of Justice in the peaceful settlement of disputes between States was no longer in question. He supported the proposals made in paragraph 1 of chapter II to promote resort to and full respect for the Court. He reaffirmed his support for the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice. His country had already made a financial contribution to the Fund and believed that on the occasion of the Decade, all Member States should demonstrate their faith in the Court by financially supporting the Secretary-General's initiative.

98. With regard to section III, particular emphasis should be given to paragraph 1 inviting the United Nations and other international organizations to submit to the

(Mr. Sene, Senegal)

Secretary-General summary information regarding their legislative activities in the field of international law. In view of the large number and diversity of international agreements, it would be prudent to inventory and assess those which already existed before undertaking any new efforts at codification or progressive development, even if such activity involved relatively new areas, such as the environment and illicit drug trafficking. Such an approach would avoid a duplication of effort with regard to both the subject of legislation and the most appropriate structure for its elaboration. Lastly, while welcoming most of the proposals in section IV, he regretted the fact that information media had not received the attention they deserved in view of the role which they could play in bringing the objectives of the Decade to the general public.

99. In his view, the Working Group had done well to confine the programme of activities, for the time being, to the first two years of the Decade. The programme outlined in annex I had been the result of compromise and, as such, had not fully satisfied the expectations of every delegation. In that connection, he drew attention to annex II, which contained a list of suggestions initially made by States and international organizations. That list would be a source of ideas for the later stages of the Decade.

100. Ms. WILLSON (United States of America) said that the United States had been pleased to be among the 72 sponsors of General Assembly resolution 44/23, which had been adopted by consensus. At the time of the adoption of the resolution, the United States had noted that declaring a decade was only the beginning of Member States' common task, a task undertaken with the full agreement of States. Because of the fundamental importance of the consent of sovereign States in the development of international law, consensus provided the purest basis for actions intended to strengthen the role of international law in international relations.

101. The Decade offered unique opportunities, since it was a time to assess developments in the field of international law in the twentieth century, a time to contribute to the field and a time to focus on its future. The United States viewed the approach to formulating a programme for the Decade in segments as prudent. Such an approach would ensure consideration of new ideas for projects that might emerge over the course of the Decade, possibly reflecting the results of various agreed projects as well as changes in the world. For similar reasons, any decision regarding the manner in which the conclusion of the Decade was to be marked might better be made later rather than earlier in the Decade.

102. The drafters of resolution 44/23 had successfully identified the main purposes of the Decade, and the States that had submitted comments on the Decade had confirmed the widespread support for work in those areas. Now, within the framework of the Decade the Sixth Committee would be able to formulate goals, objectives and priorities for future work in the field of international law both within the Committee and within the international community. The Decade presented an opportunity for greater co-ordination and rationalization of work. A step in that direction had been taken with the adoption by the Sixth Committee of the decision on the item on peaceful settlement of disputes.

(Ms. Willson, United States)

103. The Working Group had produced a realistic programme for the period 1990-1992, which, while structured according to the main purposes of the Decade, was limited neither in scope nor in participation. International organizations, regional organizations and States were all called upon to participate and contribute.

104. Paragraph 1 of section III of the programme indicated that international organizations, including the United Nations system of organizations, should be invited to submit to the Secretary-General summary information regarding the programmes and results of their work relevant to the progressive development of international law and its codification. That approach was fundamental to the success of the Decade. As pointed out in paragraph 3 of the same section, the co-ordinating role of the United Nations, and/or specifically of the Sixth Committee, was crucial.

105. Within the United Nations system itself, there were many projects that would be developed during the Decade that might contribute to international law. In the area of criminal law, for example, at its current session the Assembly was considering a number of issues forwarded to it by the recent United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and the Sub-Commission on Prevention of Discrimination and Protection of Minorities had issued a report in June on the right to a fair trial. The report gave an overview of the subject, including principal sources of international fair-trial norms, and included recommendations for further study of the subject during the Decade. No doubt there were other examples of ongoing activities within the United Nations system that could be incorporated into the Decade. Such co-ordination could be an important step in unifying work in the area of international law within the unitary United Nations - a body with many parts forming an effective whole. A co-ordination or oversight role for the Sixth Committee might be one road to that end. The United States would regard enhanced co-ordination, and thus greater efficiency and effect, as a significant achievement of the Decade.

106. The United States had joined many other delegations in submitting proposals for the programme for the Decade. Its specific proposals in the areas of peaceful settlement of disputes and encouragement of the teaching, study, dissemination and wider appreciation of international law were contained in document A/45/430/Add.2. It was pleased that some of those ideas had been included in the programme.

107. The Sixth Committee was off to a good start in dealing with the challenges and possibilities the Decade offered. The United States looked forward to making the Decade a period that would contribute to the maintenance of international peace and security by enhancing the role of law.

The meeting rose at 1.05 p.m.

UNITED NATIONS

General Assembly

FORTY-FIFTH SESSION

Official Records

SIXTH COMMITTEE
41st meeting
held on
Wednesday, 14 November 1990
at 3 p.m.
New York

SUMMARY RECORD OF THE 41st MEETING

Chairman: Mr. MIKULKA (Czechoslovakia)

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The meeting was called to order at 3.10 p.m.

AGENDA ITEM 138: UNITED NATIONS DECADE OF INTERNATIONAL LAW (continued) (A/45/430 and Corr.1 and Add.1 to 3, A/45/666; A/C.6/45/L.5)

1. Mr. MARTINEZ GONDRA (Argentina) said that the United Nations Decade of International Law, the initiative for which had come from the Movement of Non-Aligned Countries, would mark an important milestone in the history of the Organization and help to strengthen international law. His country, which like many others had submitted proposals set out in the report of the Secretary-General (A/45/430), thought that suggestions should continue to be made concerning the programme of the Decade, which offered a general framework of reference.

2. With regard to the first of the objectives of the Decade (Promotion of the acceptance of and respect for the principles of international law), particular attention should be given to the principles of the sovereign equality of States, non-use of force or threat of force against the territorial integrity or political independence of any State, non-interference in the internal affairs of other States, and peaceful settlement of disputes between States. Efforts should be made to persuade States to abide by the principle of the peaceful settlement of their disputes and to help them to choose the most appropriate means for that purpose, either recourse to the International Court of Justice or the Permanent Court of Arbitration, or other means such as good offices, mediation and fact-finding.

3. Mr. TUERK (Austria) said that there was general agreement on the primary importance of the Decade of International Law, which would probably be the most important item on the agenda of the Committee until the end of the century. His country welcomed the Decade, for international law constituted the very foundation of the international community, for which it provided a basis for the peaceful resolution of conflicts among its members. Furthermore, by asserting the principle of the sovereign equality of States international law made it possible to mitigate any differences between States in respect of size, power or political, economic or social system.

4. Everything should be done to ensure that decisions relating to the Decade were taken by consensus, so that it would enjoy the full support of all the members of the international community. The same held true for the elaboration of norms of international law. Accordingly, only those subjects on which there was already broad agreement should be considered in detail during the Decade.

5. Following the same line of thinking, the vast array of subjects contained in the list of suggestions in annex II of the report of the Working Group on the Decade (A/C.6/45/L.5) should be compressed.

6. His delegation believed that promotion of the peaceful settlement of disputes between States should be one of the major aims of the Decade, for the codification and progressive development of international law alone could not ensure world peace unless they were accompanied by settlement mechanisms. In that connection his

(Mr. Tuerk, Austria)

delegation welcomed the recent trend for more and more States to accept the compulsory jurisdiction of the International Court of Justice, at least in certain areas. Moreover, it expected that the expert meeting on the peaceful settlement of disputes, to be held shortly by the Conference on Security and Co-operation in Europe, would also be able to provide some inspiration for endeavours at the universal level.

7. His delegation attached great importance to the elaboration of legal instruments on the protection of the environment, especially with respect to ultra-hazardous activities, and on the development of international humanitarian law.

8. The Working Group on the Decade should be given, for the total duration of the Decade, the status of a permanent body with the task of preparing recommendations which could be adopted by the General Assembly. The International Law Commission should also make a major contribution to the Decade, in particular by completing its work on the topics currently on its agenda.

9. Miss CHATOOR (Trinidad and Tobago) said that in a world which had undergone important changes since the end of the Second World War there was an urgent need to improve and enhance the international legal system. Her delegation therefore welcomed the decision of the General Assembly to declare the period 1990-1999 as the United Nations Decade of International Law. Being committed to the primacy of law in the settlement of disputes between States, her country hoped that the activities and goals of the Decade would be realistic and practical.

10. The Decade's activities should be organized around the main purposes enunciated in General Assembly resolution 44/23. In order to achieve the first of those purposes (Promotion of the acceptance of and respect for the principles of international law) States would have to be encouraged to enact domestic legislation to give effect to the principles contained in international conventions. With regard to promotion of the peaceful settlement of disputes between States, which was the second purpose, recourse to the International Court of Justice should be encouraged by simplifying the procedures, for, in conjunction with a trust fund to be administered by the Secretary-General, that would facilitate access to the Court. The International Law Commission would have a decisive role in the achievement of the third purpose (Encouragement of the progressive development of international law and its codification). In particular it would have to continue its elaboration of a code of crimes against the peace and security of mankind and the drafting of a statute for an international criminal court. With respect to the fourth purpose (Encouragement of the teaching, study, dissemination and wider appreciation of international law), her country's Institute of International Relations offered courses in international law to law students and to students of political science and social science. Some primary and secondary programmes, designed in collaboration with the United Nations Information Centre in Port-of-Spain, were intended to familiarize pupils with the work of the United Nations. Intergovernmental organizations, particularly UNESCO and UNITAR, made a valuable contribution to the attainment of that purpose. Technical assistance in

(Miss Chatoor, Trinidad and Tobago)

the form of refresher courses and courses at the United Nations and in the specialized agencies would be welcome.

11. Her delegation believed that the ultimate aim of the Decade should be to ensure the primacy of law in international relations and that the present international legal order was incapable of coping with the considerable changes which were taking place. Consideration should be given to the possibility of reforming it and creating, where necessary, new institutions such as an international criminal court.

12. The Working Group of the Sixth Committee should continue to supervise the programmes for the Decade and ensure the necessary co-ordination in order to avoid overlapping or duplication.

13. Her delegation thought that it would be appropriate to mark the end of the Decade with an international peace conference which would reaffirm the primacy of international law.

14. Mr. GARRO (Peru) said that the outlook for the final decade of the century was uncertain: although the decade had begun on a very promising note, events were occurring that seriously threatened co-existence among peoples. In order to strengthen the positive elements and limit the dangers, bonds between States should be strengthened by encouraging multilateral efforts, and that was precisely the objective of the United Nations Decade of International Law.

15. After tracing the history of that initiative, from the special meeting of foreign ministers of the non-aligned movement and the Hague Declaration, to General Assembly resolution 44/23, he presented his observations and comments on the draft programme prepared by the Working Group of the Sixth Committee. The possibility of launching the Decade with a set of activities that could be undertaken within a short period of time seemed appropriate, provided that a balance was maintained between them and that they were carried out together.

16. The placement of the promotion of the acceptance of and respect for the principles of international law as the first objective listed in the programme underscored the fact that the Decade sought to make international law the focus of relations among States. As to the second objective (promotion of means for the peaceful settlement of disputes between States), it must be borne in mind that the effectiveness of those means would depend on the political will to implement them. It was therefore necessary to endeavour to create an international climate conducive to the use of existing machinery for the peaceful settlement of disputes, in particular, those listed in Article 33, paragraph 1, of the United Nations Charter, or of the mechanisms devised to deal with specific situations. It should then be left to States to select what means they wished to apply. In view of the rapid changes affecting the international situation, the third objective of the programme (encouragement of the progressive development of international law and its codification) was of particular importance, if the intention was to pave the way for a new era of co-operation. At a time when ideological confrontations were

(Mr. Garro, Peru)

fading and development was moving to the front of the international stage, priority should be devoted to defining the legal norms for a type of more just and stable international relations. Other "global" topics also merited attention, including traffic in drugs, the environment and certain human rights issues. Lastly, the fourth objective (encouragement of the teaching, study, dissemination and wider appreciation of international law) underscored the great importance of concrete action to influence ways of thinking, as a means for ensuring the rule of law in international relations.

17. In conclusion, he was encouraged by the progress already achieved and looked forward with confidence to the success of a Decade which should enable the world to move closer to its objective: the establishment of peace on the basis of justice.

18. Mr. ADHIKARI (Nepal) said that on 9 November 1990 a new Constitution institutionalizing democracy had been promulgated in his country. His new Government expressed its adherence to the principles of international law and its willingness actively to participate in the United Nations Decade of International Law.

19. On 17 November 1989, when the General Assembly had adopted resolution 44/23, by which it declared the period 1990-1999 as the United Nations Decade of International Law, it had defined the major objectives of the Decade, and he wished to offer his comments on each of those objectives.

20. With respect to the promotion of the acceptance of and respect for the principles of international law, it was the practice of the International Court of Justice and the international legal community to apply the provisions of conventions - even those that had not yet come into force - in order to settle international disputes. However, efforts to apply the rules against States risked dissuading them from adopting the instruments in question. The United Nations Convention on the Law of the Sea was a good example, for while it had been adopted nine years earlier, only 43 States had ratified it. That situation demonstrated not only a lack of political will on the part of Member States, but also, the inadequacy of appropriate international legal instruments. That was why the Working Group on the United Nations Decade of International Law should first address the question of the efficiency of existing systems and measures to verify the compliance of States with international treaties.

21. With regard to the promotion of means and methods for the peaceful settlement of disputes, including resort to and full respect for the International Court of Justice, his delegation endorsed the draft decision recommended by the Chairman of the Committee (A/C.6/45/L.7) to the effect that the question of peaceful settlement of disputes between States should be examined within the framework of the programme for the United Nations Decade of International Law and in the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, as appropriate. His delegation had voted in favour of that proposal on 9 November 1990 and, on 12 October, it had proposed that Article 36 of the Statute of the International Court of Justice should be amended to permit greater

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recourse to the Court. Moreover, now that the era of confrontation was over the super-Powers should reaffirm their faith in the Court by complying with its decisions.

22. Regional organizations such as the Asian-African Legal Consultative Committee and the specialized agencies of the United Nations also could play a vital role in that context. The Asian-African Legal Consultative Committee recently had organized a meeting on joint ventures in sea-bed mining, and planned to meet in 1991 at New Delhi to encourage its members to ratify conventions concerning refugees and to review the increasing problem of refugees and stateless persons in African and Asian States. The specialized agencies, such as UNITAR, UNESCO and others, also made a positive contribution to the progressive development of international law, and experience showed that their co-operation with the United Nations system had been extremely fruitful.

23. As to the encouragement of the progressive development of international law and its codification, the United Nations and the specialized agencies should play a vital role by opening East-West and North-South dialogues; the international community had in fact seemed rather apathetic in that regard. As Iran had aptly pointed out in its reply to the Secretariat (A/45/430, Add.1), while the norms of the law of armed conflict codified at The Hague conferences of 1899 and 1907 had been appropriate to the requirements of that era, the whole world could today be destroyed in a flash, given the development of ballistic missiles and weapons of mass destruction. His delegation therefore supported the proposal by the General Assembly in its resolution 44/23 that a third international peace conference might be held as a timely forum for regulating such activities.

24. Human rights constituted another area of increasing importance, and his delegation believed that the report of the Secretary-General on the effective implementation of United Nations instruments on human rights and effective functioning of bodies established pursuant to such instruments (A/45/707) was a positive step in the progressive development of international law. Efforts also should be made to identify the rules of international law applicable in various fields, such as the environment, with a view to their codification. The codification of international law had proceeded very slowly, perhaps because the international community had felt that it would impede the progress of co-operation among States. However, the contrary was true, as had been ably explained by Professor Schachter: a codification convention, authoritative as it might seem because of its universal acceptance, could not entirely freeze the development of law. Changing conditions and new perceptions of interests and aims continued to operate. The existence of written codified law could not prevent that. For that reason, it would be timely to hold a third international peace conference.

25. With regard to the teaching, study, dissemination and wider appreciation of international law, Member States should carefully consider the question of what types of study or teaching should be pursued, who would prepare the textbooks, what would be the contents of those books and whether they would be intended for primary or secondary schools. Those questions should be answered clearly. His delegation,

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representing a least developed State, felt that the question of poverty was directly related to the question of education. Therefore, it was practically impossible for poorer countries to reap adequate benefits from the Decade of International Law and to promote the dissemination and wider appreciation of international law. The United Nations, the specialized agencies and regional organizations and States should consider organizing seminars, symposiums, training courses, lectures and meetings and undertaking studies on various aspects of international law.

26. To achieve that goal, it would be necessary to train teachers in international law. UNITAR could play a vital role in that regard. However, owing to the current economic situation within developing countries and the United Nations itself, teachers from developing countries might not be able to exploit such opportunities. His delegation felt that UNITAR, whose budget was composed of voluntary contributions, should award fellowship to those who were unable to participate in such activities owing to their financial constraints.

27. Finally, the Sixth Committee should be aware of the need to set a precise yet flexible agenda for the Decade of International Law. The agenda should include the environmental question. The Sixth Committee could give guiding principles to the United Nations Conference on Environment and Development to be held in Brazil in 1992. In addition, as suggested by Mexico (A/45/430/Add.1, p. 10), a review conference should be held in 1995. His delegation felt that the United Nations should not repeat the same agenda every year unless that was truly necessary. If that continued, the United Nations would not be able to reach its goal, and the Decade of International Law would only be a formality without any concrete progress.

28. Mr. DROUSHIOTIS (Cyprus) said that his country was closely associated with the United Nations Decade of International Law, since resolution 44/23, by which the General Assembly had proclaimed the Year, had emanated from a proposal adopted by the Movement of Non-Aligned Countries at the Conference held in Nicosia in 1988 and a declaration adopted at the meeting of the Movement held in The Hague in 1989, both of which had been endorsed by the Non-Aligned Summit held in Belgrade in September 1989.

29. As a State which attached high priority to international law, the Republic of Cyprus regarded the promotion and primacy of international law in international relations and adherence to the purposes and principles of the Charter of the United Nations as essential elements governing relations between States. That was of particular significance to small and militarily weak States, such as Cyprus, which often found that the only way to address the problems that confronted them was through strict and consistent application of international law.

30. Cyprus supported efforts towards strengthening the rule of law in international relations and endorsed the goals of the Decade set out in General Assembly resolution 44/23. Considerable progress had been made towards those goals at the current session as a result of the recommendations of the Working Group.

(Mr. Droushiotis, Cyprus)

31. With regard to the promotion of the acceptance of and respect for the principles of international law, he wished to emphasize the importance of the Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, as well as the Manila Declaration on the Peaceful Settlement of International Disputes and the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations.

32. On the promotion of means and methods for the peaceful settlement of disputes between States, including resort to and full respect for the International Court of Justice, his delegation welcomed efforts for strengthening the mechanisms for the peaceful settlement of disputes, with particular emphasis on the role of the Court. His delegation had taken note of the remarks made by the Secretary-General on that question in his Report on the work of the Organization and of his proposal on the extension of authority under Article 96 of the Charter to the Secretary-General to request advisory opinions from the Court on the legal aspects of a dispute, which would be a very positive measure.

33. In that connection, he wished to recall that Cyprus had accepted the compulsory jurisdiction of the International Court of Justice, and stood ready to have the legal aspects of the Cyprus problem authoritatively adjudicated by the highest judicial organ of the United Nations, as proposed by the delegation of Cyprus at the Meeting of the Foreign Ministers of the Non-Aligned Movement held in The Hague in June 1989 and reiterated in the recent letter addressed to the Secretary-General on 23 October 1990 (A/45/658-S/21898).

34. The progressive development and codification of international law was a substantial element to be furthered during the Decade, and the Sixth Committee, as well as the International Law Commission and other legal bodies of the Organization, would have ample opportunity to make major contributions in that direction. In that connection, he wished to recall the two suggestions made by his delegation on possible areas of future work of the International Law Commission during the recent debate on the report of the Commission. One concerned the question of the implementation of United Nations resolutions and the legal consequences arising out of non-implementation, and the other concerned the binding nature of Security Council resolutions in the context of Article 25 of the United Nations Charter and the advisory opinion handed down by the Court on the question of Namibia. In addition, the international and intergovernmental organizations could play an important role; in that connection, the Commonwealth and the African-Asian Legal Consultative Committee, of which Cyprus was a member might be mentioned.

35. The further dissemination and enhancement of the study of international law during the Decade was essential for promoting a clear understanding of the primacy of international law in international relations. The Advisory Committee of the United Nations Programme Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law could make a major contribution to that important

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aspect of the Decade. Cyprus had contributed to various components of the programme and would continue to do so in order to assist in its implementation.

36. The promotion of human rights law and the protection of human rights, including ratification of or accession by States to the conventions on human rights should be among the Decade's objectives. Review of the status of legal conventions aiming at greater ratification of or accession to those treaties by States could form an important part of the Decade.

37. In conclusion, after reviewing the most outstanding recent events which had led to an improvement of the international situation, he said that those and other positive developments augured well for the application of the rule of law in international relations and in achieving the noble objectives of the United Nations Decade of International Law.

38. Mr. ORDZHONIKIDZE (Union of Soviet Socialist Republics), noting that the new international situation would lead to a new approach to international law, said that the proclamation of the United Nations Decade of International Law was an important step towards the establishment of an international order based on the rule of law. The Soviet Union had actively supported that initiative, as well as the idea of convening a third international peace conference to commemorate the centenary of The Hague Peace Conference. In that regard, his Government had announced its willingness to organize in Moscow an international conference to discuss, inter alia, the codification of the system for the peaceful settlement of disputes. Such a conference could be one of the central activities of the Decade.

39. The increasing interdependence of the world made it necessary for States to establish the rule of law. The affirmation of the primacy of law was based on the assumption that relations between States and peoples were founded on principles of universal morality. Mankind would not be able to progress and establish a world that was free of nuclear weapons and violence unless all States adhered strictly to the fundamental principles set forth in the United Nations Charter. Although in theory every State agreed in recognizing the validity of those principles, which could hardly be disputed, many violations occurred in practice. The problem was not in the instruments themselves which, if fully developed and applied, represented a considerable potential. The problem was that the political will to resort to those instruments was often lacking.

40. One of the principal tasks of the international community, therefore, was to ensure the progressive development of international law by applying its fundamental principles and, above all, by having greater recourse to existing mechanisms and procedures and by creating new ones. To take up the distinction made by political scientists, who saw in the absence of war a negative peace and in the absence of any threat of war a positive peace, it could be said that the improvement of the international situation favoured a positive development of international law; in other words, it made it possible to establish new rules not centred only on prohibition but on intensifying international co-operation in all areas.

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41. One means of making the rules more effective was to strengthen the machinery for verification. In that connection, a radically new concept should be adopted of the role of the verification bodies. Instead of confining themselves to establishing the facts and making a judgement, they should endeavour to find solutions and promote peaceful co-operation by exercising three functions: verifying that States were complying to the full with their commitments, helping them to do so and preventing them from breaking off the implementation of those commitments.

42. Peaceful means of settling disputes had acquired new importance. The Soviet Union believed that States should recognize the compulsory jurisdiction of the International Court of Justice, beginning with the permanent members of the Security Council. It had given up its own reservations in that connection in the case of six conventions on human rights and was preparing to take similar steps for other agreements. In addition, the role of other peaceful means of settling disputes should be enhanced, in particular those calling for mediation. The Soviet Union had abandoned the outworn stereotypes whereby the binding provisions of international law impaired national sovereignty.

43. The international organizations, particularly the United Nations and its organs, had great potentialities in regard to the maintenance of peace. Those potentialities were particularly important at the regional level, since regional conflicts currently constituted one of the most serious problems facing the international community. There were several reasons why that was so. First, it was hard to find a region where there was no conflict, actual or potential. Secondly, world interdependence was negatively mirrored at the regional level by the internationalization of domestic and inter-State conflicts. Thirdly, the scientific and technological revolution, with all its consequences in respect of armaments, meant that conflicts were now much more lethal than before for the civilian population. Fourthly, the fact that the parties to the conflict lacked the political will to resort to the settlement machinery provided by international law led to violations of fundamental human rights and freedoms. Fifthly, conflict situations engendered a steady flow of armaments and encouraged the presence of outside elements. Lastly, there was an obvious link between the excessive burden placed on countries by the regional arms race and the difficulty they had in extricating themselves from underdevelopment. All those reasons meant that it was time to work out a system of measures, based on international law, for preventing regional conflicts.

44. Renouncing a basically statist approach to international relations brought the human rights question into the foreground by associating it closely with the major universal problems. The very problem of the defence of law had taken on a global dimension, not only because only States based on law could ensure the primacy of international law, or because respect for human rights at the national level was indissociable from respect for international commitments, but also because guaranteeing the rights and freedoms of individuals depended on solving all the other problems (disarmament, environment, etc.). The intent of perestroika was to make the USSR a State of law, in other words, a State which respected human rights

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and complied with the norms of international law. The Supreme Soviet had adopted legislation including a provision that stipulated that, in the case of a conflict between domestic regulations and an international treaty, the treaty had priority.

45. The Decade of International Law could help to promote respect for law and to confirm the primacy of law in domestic affairs as well as at the international level. In the view of the Soviet Union, the programme of activities proposed by the Working Group for the first part of the Decade (A/C.6/45/L.5, annex I) was eminently suited to that purpose. Section I contained an essential concept, namely, that the maintenance of international peace and security required States to act in accordance with international law. That idea should be at the centre of the Decade and the criterion for any activity.

46. Regarding the peaceful settlement of disputes (sect. II), his delegation hoped that the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization would continue its consideration of the question of strengthening the role of the United Nations system in regard to the maintenance of peace and would make specific proposals in that connection. It was ready to contribute to promoting resort to the International Court of Justice.

47. His delegation wholeheartedly supported the proposals to encourage the teaching, study, dissemination and wider appreciation of international law (sect. IV) and stressed the need for measures to be adopted at the governmental and non-governmental level in that connection. It attached great importance to the establishment of national committees for the Decade, which would, in its view, encourage popular participation in the Decade and help to co-ordinate the activity of non-governmental legal organizations and the various educational institutions. As far as other procedures and organizational aspects were concerned, the Sixth Committee, through its Working Group, should be the co-ordinating body of the programme for the Decade. Lastly, it went without saying that, to be effective, the programme must be adopted by consensus.

48. Mr. AL-BAHARNA (Bahrain) thought that the draft programme for the activities to be commenced during the first term (1990-1992) of the United Nations Decade of International Law, in annex I of the report of the Working Group (A/C.6/45/L.5), was excellent. He also welcomed the report of the Secretary-General (A/45/430 and Add.1-3).

49. As far as the general comments were concerned, his delegation shared the view that "in order for the Decade to be successful its programmes should be generally acceptable, well defined and action oriented; they should be concrete and realistic and should not cause duplication of work of existing organs" (A/45/430, para. 8).

50. In the case of the acceptance of the principles of international law, the existing monitoring and implementation machinery, aimed at ensuring strict observance by States of their obligations in international law should be strengthened (ibid., para. 11). However, there was no need to create new machinery: it would be better to ensure that the existing machinery was fully

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utilized. His delegation wholeheartedly endorsed the suggestion that during the Decade, the progress made in regard to ratifications and accessions should be monitored (ibid., para. 12). That would help to remind States of the need to ratify multilateral treaties more rapidly, which had become more necessary than ever at a time when international customary law tended increasingly to be replaced by treaty law. The comment that "one way to enhance acceptance of and respect for the principles of international law was to encourage States to accept international law as part of their municipal laws and to have their courts apply them" (ibid., para. 13) touched on a question - that of the relationship between municipal law and international law - to which different countries brought different solutions. His delegation thought, therefore, that the Organization's possibilities of action on that point were limited. However, it endorsed the suggestion that a series of recommendations should be drawn up on more effective ways to incorporate international law into municipal law. The question could be studied by the Secretariat or some other appropriate organ of the Organization. It also endorsed the suggestion that an attempt should be made during the Decade to remedy the difficulties experienced by judges and lawyers in certain countries, particularly developing countries, in obtaining the decisions of international tribunals and documentation on international law in general.

51. With respect to the peaceful settlement of disputes between States, his delegation did not see any incompatability between the elaboration of an international convention that would deal not only with all peaceful means of settling disputes but also with conflict prevention, as suggested in paragraph 17 of the report, and the proposal in paragraph 20, which emphasized better use of existing mechanisms in that field. Moreover, with the end of the cold war, recent changes in the international political situation opened new avenues for the International Court of Justice.

52. As for encouraging the progressive development of international law, his delegation supported the objectives that the International Law Commission had set itself for the Decade (ibid., p. 74), in particular the preparation of a draft statute for an international criminal court. It had also noted with interest the suggestions contained in paragraph 25 of the report, two of which it had found to be of particular interest: "the formulation of rules of international law for establishing a new international economic order to promote growth and development" and "an analytical study on the sources of international law, including such instruments as declarations and resolutions of the United Nations". The Commission might consider the possibility of including those questions in its long-term programme.

53. While the United Nations had made laudable progress in the dissemination of international law since the 1960s, in particular through the organization of seminars and training courses in Africa, Asia and Latin America, much remained to be done in that field. His delegation therefore supported the conclusion of the International Court of Justice that one of the objectives of the Decade should be "to create in lawyers in all fields, and in all those whose professional activities are in any way linked to relations between States, an enhanced awareness of the

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scope of the rules of contemporary international law" (ibid., p. 69, para. 16). It also believed that efforts should be made to increase the awareness of the general public with respect to international law.

54. Of the ideas presented in paragraphs 26 to 33 of the report regarding the teaching and study of international law, the idea that the United Nations might prepare a general manual on international law (ibid., para. 27) was particularly interesting. In the absence of such a manual, it might also be possible to publish a collection of judicial decisions and documentation in the field of international law and to make it available to all users in developing countries at a moderate price.

55. Mr. BERG (Germany) said that, since at the previous meeting the representative of Italy had spoken on behalf of the 12 States members of the European Community, the comments he was about to make were designed only to complement that statement.

56. In a world in which the importance of international law was growing, the declaration of the period 1990-1999 as the United Nations Decade of International Law was a welcome initiative. The task of the Organization during that period would be to develop further the international legal system in order to ensure the survival of mankind. It now appeared possible that the world's problems could be settled through reconciliation and understanding, and respect for the principles of international law. The possibilities in that regard were strengthened by the end of the division of Europe and by German unity.

57. His delegation welcomed the programme prepared by the Working Group on the United Nations Decade of International Law, which was now before the Committee. It represented the first stage of the Decade and indicated the direction to be taken over the coming nine years. The activities proposed in the programme were very useful, and his country would participate in them to the fullest possible extent.

58. In due course, it would be advisable to conduct a mid-term review of the Decade in order to make any necessary adjustments. Certain criteria would contribute to the success of the Decade. It was essential to avoid duplication, to conduct a thorough analysis before formulating new norms, and to make sure that a consensus could be reached before undertaking the elaboration of new legal provisions. The draft programme took those criteria largely into account.

59. Efforts during the Decade should focus mainly on the enforcement of existing norms. Available implementation mechanisms should be strengthened and, where needed, extended. In that respect, chapter I of the programme was welcome.

60. Chapter IV, "Encouragement of the teaching, study, dissemination and wider appreciation of international law", was rightly the longest chapter of the programme. Concrete measures and results could be expected in the near future in that area. His Government had consistently supported the activities of the Organization in that field through financial contributions to the relevant United Nations programme of assistance.

(Mr. Berg, Germany)

61. In preparing and carrying out the various activities envisaged for the Decade, it was necessary to take into account the efforts being made in Europe and within the context of the Conference on Security and Co-operation in Europe (CSCE). That was especially true with regard to the peaceful settlement of disputes and human rights. In early 1991, experts of the CSCE member States would meet in Valletta, Malta, to study issues connected with the peaceful settlement of disputes. That meeting could give impetus to work in that complex field during the Decade. Conflict prevention, another question which was mentioned in the programme for the Decade, was also of concern to CSCE.

62. With respect to the peaceful settlement of disputes within the framework of the United Nations, efforts should be directed towards greater utilization of existing mechanisms, including the International Court of Justice, and to bringing their existence to the attention of States that were parties to a dispute. When those parties were not willing to accept third-party decisions, neutral authorities, such as the Secretary-General of the United Nations or commissions of inquiry or arbitration, could contribute through fact-finding missions and mediation. The programme for the Decade offered a good basis in that regard.

63. In the area of human rights, the European Convention and its additional Protocols represented the most comprehensive protection system in that area ever devised. If acceptance of and respect for the principles of international law were to be promoted, human rights should be a focal point of the Decade. In that context, the establishment of an international human rights tribunal patterned after the European model might also be envisaged.

64. Mr. BEN MANSOUR (Tunisia) said that, since the first Peace Conference at The Hague, there had been considerable progress in international law, but that much remained to be done. He therefore welcomed the declaration of the Decade of International Law, during which it would be important to invite States which had not yet done so to become parties to the multilateral treaties in force, especially with regard to the progressive development of international law and its codification and to promote the principle of the peaceful settlement of disputes between States by encouraging the acceptance and use of the existing legal instruments in that area and the formulation of new instruments. With respect to the progressive development of international law, priority should be given to such serious issues as illicit drug trafficking, the settlement of the problems posed by the external debt burden, and the protection of the environment. It would also be necessary to encourage the teaching, study, dissemination and wider appreciation of international law by supporting higher educational institutions that were already engaged in research and teaching in that field and by promoting the establishment of such institutions where needed. The organization of international and regional seminars, symposia, and lectures should permit the more active and fruitful participation of developing countries in the formulation of principles of international law. Lastly, his delegation supported the idea of holding an international peace conference at the end of the Decade.

65. Mr. ACHITSAIKHAN (Mongolia) said that his Government fully supported the objectives for the Decade put forward in The Hague Declaration adopted at the Meeting of the Ministers of Foreign Affairs of the Movement of Non-Aligned Countries. The main thrust of the Decade should be in the following areas: the elaboration of international legal principles concerning peace and security in all their aspects (political, military, economic, environmental, social, humanitarian, and other); the formulation of rules of international law concerning the establishment of a new international political and economic order on the basis of equality, non-interference and self-determination and the establishment of the legal framework for a new era of international relations in the twenty-first century (in that respect, the treaties on good-neighbourly relations concluded recently between the Soviet Union and other European States were encouraging); the enhancement of the role of the developing countries in the progressive development and codification of international law on the basis of universal values; and the codification of United Nations resolutions as a source of international law in different fields of global development.

66. His delegation welcomed the draft programme for the activities to be commenced during the first term of the Decade (1990-1992) and hoped that many of the interesting proposals contained in annex II of the report of the Working Group (A/C.6/45/L.5) would be taken up in the programme for the entire Decade. His Government's views concerning the programme were set out in document A/45/430/Add.2 and he would therefore limit himself to emphasizing certain particularly important points. During the Decade greater attention should be given to the development and codification of means for the peaceful settlement of international disputes. It was necessary in particular to identify the causes preventing the effective use of the existing international instruments and to analyse the experience of recent years in order to facilitate the elaboration of a system of universally acceptable standards. The question of the security of small States should receive special attention, as the Gulf crisis showed. During the Decade practical means must be found of strengthening the legal guarantees of the security of small States. An undertaking by States with superior military capability not to deploy forces near the borders of neighbouring small States would be of great significance in that respect.

67. The specialized agencies and international organizations working in the legal field had an important role to play in the attainment of the objectives of the Decade. His country commended in that connection the work done by the Asian-African Legal Consultative Committee, to which it endeavoured to make its contribution. At Mongolia's initiative the Consultative Committee was at present engaged in a study of the elements of a legal instrument on friendly and good-neighbourly relations between States of Africa and the Asia-Pacific region. His delegation expected that within the framework of the Decade the Consultative Committee would intensify its efforts in that area.

68. His Government was in favour of convening a third peace conference at the end of the Decade, for it would provide an occasion not only to assess the achievements of the Decade but also to lay the foundation for the development of international law in the twenty-first century.

69. Mr. ELHUNI (Libyan Arab Jamahiriya) said that his country was among those which, following the meeting of ministers for foreign affairs of the non-aligned countries at The Hague, had requested the General Assembly to declare the period 1990-1999 as the United Nations Decade of International Law. It was also one of the States which had sponsored General Assembly resolution 44/23.

70. There was a need to draft effective rules of international law which could eliminate the inequality on which international economic relations were based by establishing a new international economic order characterized by justice and equity, and which could promote economic growth and development in the world. His delegation hoped that the programme for the Decade would make it possible to eradicate colonialism in all its forms and put an end to the frightening growth of military arsenals and the waste of resources represented by the arms race. Peaceful coexistence and stability in the relations among States, the development of rules of international law designed to bring about a world free of oppression, full respect for the rule of law in international relations, respect for the right of peoples to self-determination and to exercise their full and permanent sovereignty over their land and natural resources, the protection of the environment and the use of nuclear energy for peaceful purposes were all matters which should be promoted by the programme of the Decade.

71. His delegation attached particular importance to the observance of the legal principles set out in international conventions and instruments and to the elaboration of international legal standards which could lead to comprehensive disarmament, eliminate the threat or use of force in international relations and protect the environment.

72. It supported the draft programme for the activities to be commenced during the first term of the Decade (A/C.6/45/L.5, annex I). It fully supported the statement in section 1, paragraph 1, that maintenance of international peace and security was the underlying condition for the success of the implementation of the programme of the Decade, and the call to all States to act in accordance with international law. Promotion of the accession of the largest possible number of States to multilateral treaties must certainly be part of the Decade's programme. During the past year his own country had acceded to all the international agreements on human rights.

73. One of the most important elements of the programme must be the promotion of means for the peaceful settlement of disputes between States, including recourse to and full respect for the International Court of Justice. His country had already brought cases before the Court, including its territorial dispute with Chad, because it attached great importance to the Court's role in the peaceful settlement of disputes.

74. In the Decade's first term efforts should be made to promote the progressive development of international law and its codification and to encourage its dissemination and wider appreciation. His own country was taking steps to promote the codification and dissemination of international law. For example, a few months earlier it had organized a seminar on international law attended by many professors from Libyan universities.

75. Mr. CALERO RODRIGUES (Brazil) said that the draft programme prepared by the Working Group on the United Nations Decade of International Law was satisfactory. It might indeed appear modest, but if the organs and organizations concerned endeavoured to implement it meticulously, it could deliver considerable results. His delegation was ready to do everything in its power to contribute to the programme's implementation.

76. Mr. MANGUSHO (Uganda) said that, with regard to the draft programme for the first term of the Decade, his delegation supported the recommendations made in annex I, section I, for increasing the accession of States to multilateral treaties, for that was in itself a means of encouraging the progressive development of international law and its codification. However, it was disappointed that the crucial reference to provision of financial assistance to developing countries, in particular the least developed countries, had been deleted from section I, paragraph 3, and hoped that it would be restored. His delegation fully supported the idea of seeking more effective ways of applying international law at the national level, for that would create a genuine international moral standard based on universal observance of the rule of law in international relations. In that connection it looked forward to the early publication of a handbook on treaty-making, which would be very useful to States which did not have sufficient qualified legal personnel.

77. With regard to the search for means for the peaceful settlement of disputes between States, it seemed to his delegation that each region followed its own methodology in the matter, and it hoped that some work would be done on enhancing the role of regional organizations in identifying, preventing and resolving disputes. It was up to each region to determine its own methodology without necessarily departing from the provisions of the Charter of the United Nations. It was a matter of even greater urgency to promote appropriate means for the peaceful settlement of disputes between States since the situation in the Middle East posed a threat to the peace and security of mankind. Hence, too, the absolute necessity of making an early start on the elaboration of an international legal instrument on the peaceful settlement of disputes. Of course, legal instruments alone could not avert the risk of war. His delegation therefore urged all States which had not yet done so to recognize immediately the compulsory jurisdiction of the International Court of Justice and to undertake to respect its decisions scrupulously.

78. Implementation of sections III and IV of the draft programme, entitled respectively "Encouragement of the progressive development of international law and its codification" and "Encouragement of the teaching, study, dissemination and wider appreciation of international law" would give the developing countries an opportunity to make a positive contribution to the better understanding and appreciation of international law.

79. It was to be hoped that the envisaged co-operation in the field of international law among developing States themselves and among developed and developing States would help to lessen the Eurocentricity of present-day principles of international law. It would be up to the developing countries to draw attention to the international legal norms of particular interest to them.

(Mr. Mangusho, Uganda)

80. Now that the programme had been established, Member States must work together to attain the ambitious goals of the Decade of International Law.

81. Mr. VILLAGRAN KRAMER (Guatemala), referring to the section of the draft programme relating to the teaching, study, dissemination and wider appreciation of international law, said that the Inter-American Juridical Committee could make a substantial contribution in that field. Each year the Committee organized, for the benefit of teachers of law and young jurists from ministries of foreign affairs of the Latin American countries, a course in international law to which jurists from other regions, Asia and Africa in particular, could be invited. The course had highlighted the need for wider dissemination of the new manuals and books relating to international law and the study, from a legal standpoint, of such issues as drugs, disarmament, budget deficits and external debt.

82. With regard to the peaceful settlement of disputes between States, his delegation had submitted for the Sixth Committee's consideration a document on conciliation which could make an important contribution in that field.

83. The development of international law during the 1990s required the active participation of all States, large and small. Against that background, the Sixth Committee should consider the question of rotating participation in United Nations bodies and machinery in order to overcome the obstacle of insufficient rotation, which particularly affected small States, for example in the case of the International Law Commission and the International Court of Justice. The United Nations Decade of International Law should provide small States with the opportunity to contribute to the development of international law by proposing new concepts. The Decade should not be reduced to a mere search for consensus but should instead provide an opportunity for an exchange of opposing points of view from which solutions would emerge.

84. Mr. TANKOANO (Niger) said that promotion of the peaceful settlement of disputes between States and recourse to the International Court of Justice should be the cornerstone of the programme for the United Nations Decade of International Law. Referring in particular to the contribution of the International Court of Justice to the peaceful settlement of disputes and the codification of international law, he said that while, following its judgement of 18 July 1966 regarding South-West Africa, the Court had lost considerable credibility and prestige among developing countries, and among the African States in particular, his delegation had always been convinced that its past shortcomings in no way diminished its potential for playing a role in the peaceful settlement of disputes and in promoting the rule of law. Indeed, the Court had subsequently regained its credibility in the international community, particularly among the African States. It was for that reason that, for the first time two African States, namely Burkina Faso and Mali, had submitted their territorial dispute to the Court in 1986. The legal significance of the judgement handed down by the Court on 22 December 1986 in the case lay in the fact that it incorporated the principle of the inviolability of borders inherited from colonial times as a principle of general international law,

(Mr. Tankoano, Niger)

thus ending a long-standing doctrinal controversy. Chad and Libya had also decided to submit their territorial dispute to the Court.

85. In his delegation's view, judicial settlement was the best means of settling disputes peacefully, in that it obliged the parties to respect the decision of the Court in order to ensure that law prevailed. For that reason, his delegation welcomed the initiative of the States which had decided to contribute to the Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice, and it urged States to recognize the binding jurisdiction of the Court. It also encouraged States to avail themselves of the adjudicatory procedure in order to settle their disputes when they had exhausted all other means of peaceful settlement. That would be the best way to contribute to strengthening the role of the Court in promoting international justice in the cause of international peace and security. It was only thus that the Court, which under Article 92 of the Charter was the principal judicial organ of the United Nations, could and should contribute to the establishment of a world of justice and law.

86. In conclusion, he said that only the political will of the member States of the international community would enable the Decade of International Law to achieve its objectives.

87. Mr. BOTERO (Colombia) said that the draft programme prepared by the Working Group on the United Nations Decade of International Law would make it possible to undertake activities which were of common interest, while leaving States the possibility of changing their views, where necessary, as to the best way of implementing the Decade, thereby taking into account any new developments on the international scene. Resolution 44/23 represented an important contribution by the United Nations to the development and strengthening of international law, in that it crystallized the will of the world community to strengthen the principles and norms which governed civilized nations and which should be the primary means of preventing and settling disputes. Apart from providing an opportunity to reaffirm the principles and norms established by the international community, the Decade could help to promote new means and new procedures for confronting the challenges and needs of the future. The search for broadly acceptable agreements should not be the pretext for subordinating law to the requirement of unanimity. Experience had shown that it was possible to arrive at agreements, as had been the case in the Working Group, without undermining the recognized rights of all States. His delegation endorsed the report of the Working Group (A/C.6/45/L.5) and hoped that it would be adopted by the Sixth Committee without delay.

88. Mrs. CHAVES (International Committee of the Red Cross) said that ICRC regularly published the status of ratification of the 1949 Geneva Conventions and the 1977 Additional Protocols. The periodic publication of the status of ratification of treaties was a useful way of drawing the attention of the competent authorities to possible oversights or omissions. In that regard, the biannual report of the Secretary-General on the status of the Additional Protocols could only be commended.

(Mrs. Chaves)

89. All Parties to Protocol I relating to the protection of victims of international armed conflicts should be urged to recognize the competence of the International Fact-Finding Commission referred to in article 90 of that instrument. The Commission, which would be established when 20 High Contracting Parties agreed to accept its competence (19 States had so far done so), would be competent to inquire into any facts alleged to be a grave breach of humanitarian law and to facilitate, through its good offices, the restoration of respect for such law.

90. The institution of the protecting Power foreseen by international humanitarian law should also be recalled, as should the fact that ICRC, in accordance with the mandate entrusted to it by the international community, was responsible for ensuring the faithful application of international humanitarian law and for fulfilling the tasks assigned to it under the Geneva Conventions for the protection of, and assistance to, the victims of armed conflicts.

91. ICRC would find it useful to include in the programme of activities for the Decade the question of measures to be taken at the national level to ensure the implementation of treaties.

92. With regard to the codification and progressive development of international law, the mandate entrusted to ICRC by the international community in respect of the development of international humanitarian law had been confirmed in 1986 by the twenty-fifth International Conference of the Red Cross, attended by the States Parties to the Geneva Conventions. Since the adoption of the 1864 Geneva Convention, ICRC had continuously endeavoured to provide improved protection under international law for the victims of armed conflicts. The 1977 Additional Protocols were the most recent result of those efforts.

93. ICRC was convinced that the international community must now focus on increased respect for existing humanitarian law rather than on its development. It was nevertheless paying close attention to the problems that had arisen, for example with regard to the law of war at sea or weapons causing unnecessary suffering, and was ready to take further initiatives if the circumstances so required. It had taken note of the proposal for the elaboration of additional rules applicable in armed conflicts, but considered it a matter of greater urgency that States ratify, without delay, the two Additional Protocols of 1977.

94. ICRC attached great importance to dissemination of the norms of humanitarian law, particularly among the armed forces, and recalled how necessary it was to spread such knowledge even in time of peace. It had read with interest the proposals made in the Working Group's report concerning the dissemination of international law, and was ready to share its experience in that field.

95. ICRC pledged to contribute to the success of the Decade and would remain in contact with the Secretary-General on the subject.

The meeting rose at 6.10 p.m.

UNITED NATIONS

General Assembly

FORTY-FIFTH SESSION

Official Records

SIXTH COMMITTEE
42nd meeting
held on
Thursday, 15 November 1990
at 10 a.m.
New York

SUMMARY RECORD OF THE 42nd MEETING

Chairman: Mr. MIKULKA (Czechoslovakia)

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The meeting was called to order at 10.20 a.m.

AGENDA ITEM 138: UNITED NATIONS DECADE OF INTERNATIONAL LAW (continued) (A/45/430 and Corr.1 and Add.1-3, A/45/666; A/C.6/45/L.5)

1. Mr. ROUCOUNAS (Greece) said that his delegation's position on the programme for the Decade had been reflected in the statement made by Italy at the 40th meeting on behalf of the 12 States members of the European Community. At the current meeting, he wished to reaffirm the Greek Government's desire to contribute to the achievement of the objectives of the Decade, and also to raise a number of points concerning the programme prepared by the Working Group.

2. The adoption of General Assembly resolution 44/23 had paved the way for a new approach to the role of law in international relations. While the twentieth century had indeed seen great suffering and many affronts to human dignity, considerable progress had been made in the field of international law as a result of a major codification process. The Decade would ensure that Governments and experts dealt with specific needs that had arisen over the years, and would facilitate the drafting of rules on new activities. It would also strengthen the machinery for the peaceful settlement of disputes between States, while highlighting the essential role of the International Court of Justice in that connection. It would, moreover, provide an opportunity for rationalization and co-ordination with a view to reaffirming and clarifying existing law. Greece strongly supported initiatives to encourage the teaching, study and dissemination of international law.

3. The Decade would increase support on the part of States for the observance of international law. It should be borne in mind, in that connection, that the most basic principles were also the most crucial to the rule of law. Perhaps the best way in which States could contribute to the Decade would be to show full respect for international law.

4. In its reply reproduced in the Secretary-General's report (A/45/430), his Government drew attention to the need to undertake, in the context of the Decade, an in-depth study of the question of collective security. So far the United Nations had considered and developed only two of the basic elements of the international legal order: the duty of States to settle their disputes by peaceful means; and the obligation to refrain from the use of force in international relations. The United Nations had not yet worked on the third component, collective security, even though it was absolutely essential to do so in order to guarantee the supremacy of international law. The concept of collective security should therefore be given a prominent place in the activities carried out under the Decade. The Special Committee on the Charter was clearly well suited to dealing with that matter. Greece noted that section III of annex I to the Working Group's report (A/C.6/45/L.5) made provision for the study of measures to strengthen the United Nations system for the maintenance of international peace and security. The outcome of such a study could be a concise text setting out the duties of States and the United Nations in the field of collective security. It would thus be

(Mr. Roucounas, Greece)

possible to complete the exercise that had resulted in major United Nations declarations on friendly relations and co-operation among States, peaceful settlement of disputes, and non-use of force.

5. Mr. KOSTOV (Bulgaria) said that the Decade created an opportunity to outline a strategy for developing international law. Application of the concept of the primacy of law in politics, which had been undergoing a process of consolidation, should lead to the establishment of an international order that guaranteed that universal values took precedence over national ones. The system for maintaining international peace and security should therefore above all uphold the international legal order. The Decade should, among other things, achieve two interrelated objectives: strengthen respect for, and implementation of, existing international law; and encourage the progressive development of international law and its codification.

6. Bulgaria noted with satisfaction the statement by the Chairman of the Working Group that the comprehensive list of suggestions set out in annex II to the Group's report (A/C.6/45/L.5) would be a permanent source of inspiration for activities under the Decade. It also welcomed the fact that the draft programme for the activities to be commenced during the first term of the Decade (annex I) envisaged provisions, procedures and mechanisms to facilitate achievement of the Decade's main purposes. That draft programme was a good start, particularly since it was based on the realization that decisions should be adopted only after careful consideration. Bulgaria was pleased to note that it provided for ways of achieving generally acceptable practical results. Section III of the draft programme proposed a balanced mechanism for receiving and considering the necessary information for identifying areas of international law that might be ripe for progressive development or codification. The Sixth Committee's role as a co-ordinating body for the Decade was of particular importance in that connection.

7. Mr. UHOMOIBHI (Nigeria) said that the item before the Committee was of particular interest in view of the importance of the rule of law in the life of a nation, and the crucial role of international law in the maintenance of international peace and security. The international community had endorsed the four main objectives set out in General Assembly resolution 44/23, because their implementation would enhance prospects for international peace and security. Nigeria noted that support for the Decade had gained considerable momentum. It was fully aware of the role that the promotion of acceptance of, and respect for, the principles of international law could play in the maintenance of international peace and security. Steps must be taken to ensure that the Decade resulted in specific, effective measures.

8. With reference to the measures outlined in the draft programme prepared by the Working Group, Nigeria would like to see greater co-operation between developing and industrialized countries, so as to enable the developing countries to participate more fully in multilateral treaty-making. It was equally important that Member States should show more willingness to abide by the principles of international law and the tenets of the United Nations Charter.

(Mr. Uhomoibhi, Nigeria)

9. With regard to the specific measures recommended by the Working Group to promote the peaceful settlement of disputes between States and the resort to, and respect for, the decisions of the International Court of Justice, Nigeria emphasized that it would have difficulty in accepting any measures that did not facilitate the application of the Statute of the Court and international legal norms and practices.

10. Nigeria fully endorsed the Working Group's proposal on the strengthening of the United Nations role in the peaceful settlement of disputes. It agreed, furthermore, that international peace did not necessarily mean the absence of disputes but, rather, the ability of States to settle their disputes peacefully. The international community must not shirk its responsibility for devising ways of improving international legal machinery for the peaceful settlement of disputes between States.

11. The third objective to be achieved in the first biennium of the Decade, was to encourage the progressive development of international law and its codification. Nigeria fully subscribed to the relevant measures outlined by the Working Group.

12. Most developing countries would encounter obstacles in connection with the teaching, dissemination and wider appreciation of international law. Many of their universities and institutions of higher learning that would be responsible for the teaching and dissemination of international law during the Decade were short of both funds and books. Nigeria therefore urged the members of the international community to increase their support for developing countries' universities and libraries.

13. Mr. PAWLAK (Poland) said that the beginning of the Decade of International Law had been marked by the most serious international crisis since the Second World War. A sovereign State had been invaded by a neighbour and been incorporated into that neighbour's territory. The international community, which had thus been confronted with the most serious kind of breach of international law, had responded to the crisis by applying international legal mechanisms under the United Nations Charter. Although the Gulf crisis was far from being solved, it demonstrated the importance of the legal dimension of today's world.

14. Poland itself observed the principle of the rule of law in international relations, and believed that the Decade should both enhance the rule of international law and encourage its progressive development and codification. One of Poland's earliest decisions once it had become a sovereign State again had been to accept the compulsory jurisdiction of the International Court of Justice.

15. The Decade provided an opportunity to enhance the rule of law in international relations by focusing on practical objectives. The proposed programme of work for the first two years of the Decade (A/C.6/45/L.5, annex I) was generally acceptable and realistic. Particular attention should be devoted to: promotion of the acceptance of, and respect for, international law; promotion of means and methods for the peaceful settlement of disputes between States; and encouragement of the

(Mr. Pawlak, Poland)

teaching, study, dissemination and wider appreciation of international law. United Nations bodies, particularly the International Law Commission, should take up major legal issues and prepare specific law-making treaties. The highest priority should be accorded to better enforcement of international law. To achieve that aim, proper use should be made of all means and methods provided for in the Charter. The post-cold-war order created an opportunity to adopt a new approach to United Nations peace-keeping activities, including collective operations. International law should be the basis for the promotion of global co-operation in dealing with such problems as international terrorism, drug abuse and illicit trafficking, the debt burden, financial instability, trade barriers, and transboundary pollution.

16. Attention should be focused first and foremost on the issue of the peaceful settlement of disputes. The settlement of disputes by means of wider resort to such practical means as conflict detection and prevention, fact-finding, negotiation, mediation, conciliation, reporting to United Nations organs, arbitration and judicial settlement, could ease international tensions and contribute to the elimination of armed conflicts among States. Poland was in favour of the preparation of a new universal convention on peaceful settlement of international disputes. However, if it was premature to prepar such a convention, generally acceptable rules should be adopted in the form of a declaration, as a basis for a future convention.

17. Since effective international tribunals were an important safeguard of law in international relations, the role of the International Court of Justice should be strengthened, and all States should be encouraged during the Decade to make declarations accepting the Court's compulsory jurisdiction. Poland was in favour of establishing an international criminal court or similar international mechanism with jurisdiction over individuals guilty of terrorism, piracy, hijacking, hostage-taking, genocide, drug trafficking and other crimes of an international character.

18. Poland strongly supported the efforts of the United Nations and regional organizations in the area of the teaching and study of international law, and education and training in such law. An important role would be played by the Hague Academy of International Law, the United Nations University and the United Nations Institute for Training and Research. More attention should be paid to obligatory training in international law for the legal officers of States' foreign services. At the end of the Decade, it would also be advisable to publish a comprehensive universal handbook on public international law, under the aegis of the United Nations.

19. Poland's suggestions and concerns were reflected in many ways in the draft programme for the activities to be commenced during the first term of the Decade. His delegation noted with particular satisfaction that the draft programme contained an elaborate section on the peaceful settlement of disputes between States, including the issue of resort to, and full respect for, the decisions of the International Court of Justice. It also welcomed consideration of the issue of the encouragement of the teaching, study, dissemination and wider appreciation of international law.

20. Mr. BELLOUKI (Morocco) said that the current international détente and dialogue augured well for the establishment of a new order in international relations founded on international law. The initiative of the Movement of Non-Aligned Countries had been in response to the generally recognized need to promote the rule of law in international affairs, and had led to the adoption by consensus of General Assembly resolution 44/23, declaring 1990-1999 the United Nations Decade of International Law. The objectives of the Decade should be tailored to the needs of the twenty-first century.

21. Despite its brevity, the draft programme drawn up by the Working Group was doubtless a good start. However, his delegation feared that an unambitious Decade might consecrate the unjust status quo, instead of helping to change and strengthen the role of international law, to entrench the principle of law firmly and irrevocably in human thinking, and to narrow the gap between the law and the needs of the public. International peace and security should be strengthened on the basis of law, justice and the legitimate rights of countries; international economic relations should be based on justice and the promotion of development in the developing world. International law should keep pace with developments in international relations, and the interests of the developing countries should be reflected in the foundations of the new international order.

22. Constant priority should be given during the Decade to various means of peaceful settlement of disputes. His delegation welcomed the idea of the proposed international convention, and praised the efforts of the Secretariat in preparing a practical guide to the peaceful settlement of disputes. The role of the Secretary-General and the organs of the United Nations should be strengthened in that regard. The peaceful settlement of disputes with third-party assistance should be encouraged, especially through the International Court of Justice.

23. The progressive development and codification of international law should encompass such fields as the environment, the question of regional blocs and the particular needs of developing countries. It was also important to streamline the work of the International Law Commission and enrich it with contributions from all its members.

24. Efforts to encourage the teaching, study, dissemination and wider appreciation of international law should focus on universities, jurists and public opinion. There should be regional and international seminars and workshops. Law faculties in the developing countries should be given assistance through the provision of textbooks on international law in the official languages of the United Nations.

25. His delegation feared that voluntary contributions to the Decade might be insufficient for the desired objectives. It considered, too, that a body which met periodically would be in a good position to implement the programme. It therefore hoped for an enhancement of the co-ordinating role of the Sixth Committee in regard to the examination of legal topics within the framework of the United Nations.

26. Mr. VAN DE VELDE (Netherlands), after explaining that his comments were a complement to the statement made at the 40th meeting by the representative of Italy on behalf of the States members of the European Community, paid tribute to the Legal Counsel's efforts to assist the Committee and its Working Group. The numerous contributions made towards the formulation of the programme for the Decade testified to a renewal of interest in international law. Noting that the improvement in East-West relations was contributing to the process of strengthening the authority of international law, his delegation welcomed the Soviet representative's remarks concerning the rule of law and the primacy of international law over domestic law.

27. The action of the Security Council in dealing with the Iraqi aggression was a heartening development. It encouraged those who believed in the role of international law in settling international disputes to continue advocating recourse to the available machinery while refining it further, publicizing new standards and seeking ways of ensuring compliance. It was to be hoped that the Decade would be fruitful in that respect.

28. Special attention should be given in the Decade to promoting methods for the peaceful settlement of disputes between States, and the special role of the International Court of Justice as the principal organ for the settlement of disputes should be emphasized. Increasing acceptance of the optional clause under Article 36, paragraph 2, of the Court's Statute was an essential element in strengthening the Court; if by 1999 the number of States accepting the Court's compulsory jurisdiction had substantially increased, one of the main goals of the Decade would have been accomplished. His delegation also advocated a more active role for the Court in the field of environmental protection. In that connection, he referred to a declaration adopted at The Hague in March 1989, which provided for a role by the Court in the context of the preservation of the earth's atmosphere. The Netherlands intended to contribute to the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the Court, and strongly urged other countries to do likewise. His delegation also felt that better use should be made of other existing organs for the settlement of disputes, in particular the Permanent Court of Arbitration.

29. The Sixth Committee seemed to be agreed that, in addition to other issues, the Decade should focus on the encouragement of the teaching, study, dissemination and wider appreciation of international law. With regard to dissemination, his delegation considered that electronic methods should be applied to the collection and transfer of international legal materials. The case-law of the International Court of Justice and other relevant materials such as treaties, resolutions and other texts deposited with the United Nations Secretariat should be made generally available through a consumer-friendly data bank. It was to be hoped that developing countries would be among the first beneficiaries of such a system.

30. The suggestion of the Nordic countries that the Secretary-General should be invited to prepare a survey of the areas in international law so far covered by codification or generally accepted treaties was to be welcomed. Furthermore, consideration should be given to the possibility of carrying out a project in which

(Mr. van de Velde, Netherlands)

international law was reviewed from the viewpoints of different legal cultures. The compilation and publication of a multi-volume United Nations manual on international law would be a valuable contribution to the Decade.

31. His country's connection with international law was traditionally a very strong one. Grotius, known as the father of the law of nations, had been a Dutch scholar; The Hague had been the venue for the peace conferences of 1899 and 1909, and was today the home of the International Court of Justice and the Permanent Court of Arbitration. Important tasks were also performed by the Hague Conference on Private International Law and the Hague Academy of International Law, singled out for appreciative mention in General Assembly resolution 44/28. In conclusion, referring to his country's programme of scholarships for foreign students, inter alia, in the field of international legal education, he said that the Netherlands intended to maintain its commitment to funding legal scholarships.

32. Mr. MONGA (Zaire) said that his delegation was deeply committed to the principles of the Charter of the United Nations and of the Manila Declaration on the Peaceful Settlement of International Disputes. It was pleased to note that promotion of means and methods for the peaceful settlement of disputes between States, including resort to and full respect for the International Court of Justice, appeared prominently among the activities to be commenced during the first term of the United Nations Decade of International Law. In that context, he particularly stressed his delegation's support of the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice.

33. His delegation welcomed the proposed activities in connection with the encouragement of the progressive development of international law and its codification, especially in the field of environmental protection. It supported the activities envisaged in connection with the encouragement of the teaching of international law at all levels - primary, secondary and higher - and of its study, dissemination and wider appreciation. It also supported the idea of holding an international conference at the end of the Decade with a view to the adoption of a declaration setting forth the principles of international law concerning peace and development, and affirming the primacy of international law in the maintenance of international peace and security.

34. Mr. VUKAS (Yugoslavia), speaking as Chairman of the Working Group on the United Nations Decade of International Law, thanked all delegations for their kind remarks about the work of the Working Group, as well as for those addressed to him as the Working Group's Chairman.

35. Many topics pointed out as being important in the discussion, although not specifically mentioned in the draft programme for the first-term (A/C.6/45/L.5, annex I) were covered by the general language used in the programme. For example, the programme invited States to detect lacunae and poor solutions in existing international law and to make suggestions for its improvement. The programme made it clear that all States and all international organizations or institutions were

(Mr. Vukas, Yugoslavia)

free to study all means and methods of peaceful settlement of disputes, as well as all aspects of the jurisdiction of the International Court of Justice, and to make suggestions in that connection to the Sixth Committee. Furthermore, as a speaker in the debate had pointed out, bona fide implementation of the Decade involved more than undertaking the specific tasks set out in the programme; rather, it meant that all activites, whether in the United Nations, in bilateral relations between States or in the teaching of international law, should be constantly inspired by the purposes of the Decade.

36. It was deplorable that at the end of the twentieth century international disputes were still the international community's main preoccupation. Given the necessary political will, the delimitation of a maritime area or the avoidance of border incidents could easily be achieved. On the other hand, mankind was faced with serious and frightening realities such as violations of human rights, pandemic diseases, poverty, hunger, overexploitation of the remaining natural resources, extermination of species, and global threats to the environment. The international community should concentrate on finding ways of improving the lives of individuals and ensuring the survival of mankind. Parallel with promoting respect for international law in relations between States, the Decade should mark the beginning of an era in which the individual became the ultimate beneficiary of international rules. Constitutional recognition of the primacy of international rules over national ones would represent a first step in that direction.

37. At the end of the Decade, scheduled to coincide with the eve of a new millennium, a concluding conference could be held with the task of adopting a general convention on the settlement of disputes, or any other document the United Nations might consider appropriate. Whether the conference was held at The Hague, in Belgrade or in New York, he firmly hoped that it would not be called the "third peace conference" but would be designated by a name distinguishing it from the first two peace conferences, which had been followed by world war.

AGENDA ITEM 143: CONSIDERATION OF THE DRAFT ARTICLES ON THE STATUS OF THE DIPLOMATIC COURIER AND THE DIPLOMATIC BAG NOT ACCOMPANIED BY DIPLOMATIC COURIER AND OF THE DRAFT OPTIONAL PROTOCOLS THERETO (A/44/10; A/C.6/45/L.8)

38. The CHAIRMAN drew attention to chapter II of the report of the International Law Commission on the work of its forty-first session (A/44/10), containing the draft articles on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier and the draft optional protocols thereto. It would be recalled that, in accordance with paragraph 2 of General Assembly resolution 44/36, the Committee had agreed that informal consultations should be held at the current session under his guidance to study the draft articles and draft optional protocols, as well as the question of how to deal further with those draft instruments with a view to facilitating the reaching of a generally acceptable decision in the latter respect. During the first session of informal consultations, which had been open-ended, a brief exchange of views had taken place on the various aspects on the task thus defined. There had been general agreement that the work should be done in stages and that the first phase, of an exploratory

(The Chairman)

nature, could most profitably be conducted in a more restricted framework. A small group had accordingly been established by him and had held six meetings.

39. He had then convened a second session of informal consultations, in the course of which he had made an oral report on the results achieved. It had been agreed that he would transmit that oral report to the Sixth Committee at the start of consideration of agenda item 143.

40. In the oral report, he had described the three main trends that had emerged from the debate. Some members had reiterated their general support for the draft articles as adopted by the International Law Commission, but at the same time had expressed readiness to consider possible amendments in the interest of consensus. Other members had reserved their position until it became clearer whether a useful and generally acceptable text could be arrived at by remedying what they viewed as shortcomings and imbalances in the existing draft. Still other members had said that they remained unconvinced of the need for, or usefulness of, a new convention on a matter already regulated by widely accepted conventions, the application of which had not given rise to any serious difficulties in the past 30 years.

41. Against that background, a review had been undertaken of some of the provisions which had been most extensively discussed both in the Commission itself and in the Sixth Committee at the forty-fourth session of the General Assembly, namely, articles 17, 18 and 28.

42. In the opinion of some members, article 17, on the inviolability of the courier's temporary accommodation was difficult to justify in terms of functional necessity, and imposed an undue burden on receiving and transit States. Other members had remarked that by inserting the words "carrying a diplomatic bag" after the words "the temporary accommodation of the diplomatic courier", the Commission had made it clear that the intention of the text was not to confer a privileged status on the temporary accommodation, but to prevent tampering with the diplomatic bag. They had also observed that the rule enunciated in paragraph 1 admitted of exceptions, as the words "in principle" suggested and as the rest of the article confirmed. While favouring the text proposed by the Commission, those members had felt that an additional step could conceivably be made in the direction indicated by the Commission itself, with the emphasis shifted further from the inviolability of the temporary accommodation to the protection of the bag while present in the temporary accommodation.

43. In his view, the discussion had opened prospects for a possible compromise solution which would consist in dropping the concept of inviolability stricto sensu, and adopting instead a pragmatic approach whereby the authorities of the receiving or transit State would refrain from any intrusion into the temporary accommodation which could jeopardize the safety or inviolability of the bag; at the same time, paragraphs 2 to 4 of article 17 would be retained in their present form. He also felt that, under certain conditions, the deletion of article 17 could be envisaged as part of a broader package deal.

(The Chairman)

44. Article 18, on immunity from jurisdiction, had been criticized by some members; they had favoured its deletion in view of the abuses to which, in their opinion, such a provision could give rise. The article had furthermore been viewed as superfluous and functionally unwarranted. Other members, however, had felt that article 18 went a long way towards accommodating the concerns of those who favoured the functional approach. It had been remarked that the phrase "in respect of acts performed in the exercise of his functions" granted the diplomatic courier, notwithstanding the importance of his functions, a lower degree of protection than was afforded to the administrative and technical staff of diplomatic missions by the 1961 Convention on Diplomatic Relations.

45. Some members, while being of the view that article 18 struck an adequate balance between full immunity for the courier and the interests of receiving and transit States, had observed that the provision was closely linked to article 16, which placed on the receiving and transit States an obligation to protect the courier and granted the courier personal inviolability and immunity from any form of arrest or detention. It had been suggested that the possibility of covering the concerns underlying article 18 in article 16 might be explored, bearing in mind that, as a rule, a person discharging official functions on behalf of a State was not answerable for the acts performed in the exercise of those functions. A compromise solution could perhaps be arrived at on the basis of that suggestion.

46. Article 28, on the protection of the diplomatic bag, had generally been considered as a very important provision on which the acceptability of the draft as a whole would depend. With regard to paragraph 1 of the article, the view had been expressed that the diplomatic bag should be exempt from any form of examination which might jeopardize the confidentiality of its contents. In that connection, it had been observed that the phrase "and shall be exempt from examination directly or through electronic or other technical devices" answered a real need in view of the existence of sophisticated means of examination which might result in violation of the bag's confidentiality. On the other hand, the view had been expressed that the text did not take sufficient account of abuses of the bag, such as had occurred in contemporary international practice, or of the legitimate security concerns of the receiving and transit States.

47. Some members had observed that, as pointed out by the Commission in paragraph (6) of its commentary to the article, the phrase in question did not rule out non-intrusive means of examination such as sniffing dogs, and that article 25 limited the contents of the bag to diplomatic correspondence and documents or articles intended exclusively for official use. It had been suggested by some that those two elements could be built upon in order to protect the confidentiality of the permissible contents of the bag, while preventing at least one form of abuse, namely, the use of the diplomatic bag for the transport of narcotic drugs.

48. Others had expressed doubts as to the efficacy of such an approach; there were other, perhaps still more serious, abuses of the bag, such as the carriage of firearms, explosives and explosive devices, and currency; the prevention of such abuses might involve the use of more intrusive means.

(The Chairman)

49. The point had been made that the main problem raised by article 28 was to be found in paragraph 2 rather than paragraph 1. If the receiving or transit State had serious grounds to believe that a diplomatic bag was being misused, the question arose as to what choices would then be open to it: could it apply to the diplomatic bag the treatment provided for in paragraph 2 in relation to the consular bag, or was it under an obligation to let the bag continue on its journey? Several members had felt that a case could be made for extending to all bags the régime provided in paragraph 2 for the consular bag. Others, however, had pointed out that such a provision would constitute a serious departure from existing law as codified in the 1961 Convention on Diplomatic Relations.

50. In his opinion, no generally acceptable way had yet been found of reconciling the protection of the legitimate contents of the bag with the protection of the interests of the receiving States and the prevention of abuse of the bag.

51. Other articles had not been discussed. In his view, agreement on the issues to which he had referred might encourage delegations to make the additional effort needed in order to overcome their differences in respect of other articles, in particular articles 13, 15, 19, 20 and 30. The consultations had certainly contributed to clarifying existing positions, and he was most grateful to the participating delegations for their co-operation and help.

52. Mr. MARTINEZ GONDRA (Argentina), after briefly reviewing the history of the consideration of the item before the Committee, said that the very fruitful informal consultations showed that all participating delegations were interested in co-operating in order to make progress on the draft. While difficulties remained with respect to a number of articles, in particular, articles 17 and 28, suggestions and alternatives had emerged on the basis of which it should be possible to reach an agreement acceptable to all.

53. The consultations should continue, and it was to be hoped that all delegations would demonstrate a geniune interest in reaching an agreement, and that it would be possible to take a final decision on the text at the forty-sixth session of the General Assembly.

54. Mr. NEDELCHEV (Bulgaria) said that the process of the codification and progressive development of international diplomatic and consular law was an important factor in enhancing the stability of diplomatic and consular relations among States and, hence, of international relations as a whole. The elaboration of an international instrument on the status of the diplomatic courier and the diplomatic bag merited particular attention, since the draft articles adopted by the International Law Commission represented the first text on which the Commission had completed its work during its current mandate.

55. Although his delegation's position was not fully reflected in the draft, it recognized that compromise was the only way to establish a balance between the interests, rights and obligations of the sending State and those of the receiving or transit State. His delegation had reiterated its general support for the draft

(Mr. Nedelchev, Bulgaria)

articles during the informal consultations, and had expressed its readiness to consider possible amendments in the interest of enhancing their acceptability. While at first glance it might appear that the results of the informal consultations had not lived up to expectations, they had in fact enabled delegations to understand the differing approaches to the topic, and such understanding was necessary in order to arrive at generally acceptable solutions.

56. His delegation therefore would welcome a decision to resume the informal consultations at the forty-sixth session of the General Assembly, with a view to facilitating the reaching of a generally acceptable decision on how to deal further with the draft instruments under consideration. It was his understanding that delegations now agreed that all options for reaching the desired solution had not yet been exhausted. While considering the possible grounds for a reasonable compromise, delegations should take due account of two interrelated concerns: firstly, the need to prevent the violation of the confidentiality of the legitimate content of the diplomatic bag, as a sine qua non for the normal conduct of official relations among States and, secondly, the need to prevent abuses of the bag such as had been witnessed in contemporary international practice.

57. Mr. ALVAREZ (Uruguay) said that some of the proposed draft articles stated norms which filled gaps in the 1961 Vienna Convention on Diplomatic Relations and the 1963 Vienna Convention on Consular Relations. Other articles elaborated on those instruments, and still others sought to cover situations which occurred in contemporary international practice but were not regulated. That harmonization effort was useful, and his delegation agreed that informal consultations were an appropriate way to deal with the unresolved issues.

58. Draft article 17, on inviolability of temporary accommodation, sought to establish a balance between the rights of the sending State and those of the receiving and transit States. The restrictions on the inviolability of temporary accommodation were appropriate given the nature of the accommodation, which differed considerably from that of the premises of a diplomatic or consular mission. The protection accorded to the diplomatic bag and the courier in article 17, paragraph 3, and article 28 guaranteed their inviolability. Article 17 also covered situations which might endanger the security of citizens of the receiving or transit State. The words "in principle" in paragraph 1 should be deleted in order definitively to establish the criterion of inviolability, which would cease to apply only in the circumstances mentioned in subparagraphs (a) and (b) of paragraph 1.

59. With respect to article 28, his delegation could accept the distinction drawn between the situations envisaged in paragraphs 1 and 2 if it would elicit the agreement of all the States parties to the 1961 and 1963 Conventions.

60. As to article 28, paragraph 2, for the purpose of stressing the importance of the general principle of the inviolability of the bag, it might be desirable to insert a clause which specifically underscored the responsibility of the competent authorities of the receiving or transit State.

(Mr. Alvarez, Uruguay)

61. Delegations should make an intensive effort in the course of the broadest possible consultations to reach a decision on the text, at the very latest, at the forty-seventh session of the General Assembly. It was essential not to allow government policies to stand in the way of a result which had emerged from years of effort by the International Law Commission on the topic.

The meeting rose at 12.10 p.m.

UNITED NATIONS

General Assembly

FORTY-FIFTH SESSION

Official Records

SIXTH COMMITTEE
43rd meeting
held on
Friday, 16 November 1990
at 10 a.m.
New York

SUMMARY RECORD OF THE 43rd MEETING

Chairman: Mr. MIKULKA (Czechoslovakia)

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AGENDA ITEM 143: CONSIDERATION OF THE DRAFT ARTICLES ON THE STATUS OF THE DIPLOMATIC COURIER AND THE DIPLOMATIC BAG NOT ACCOMPANIED BY DIPLOMATIC COURIER AND OF THE DRAFT OPTIONAL PROTOCOLS THERETO (continued)

AGENDA ITEM 141: REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS TWENTY-THIRD SESSION (continued)

AGENDA ITEM 135: OBSERVER STATUS OF NATIONAL LIBERATION MOVEMENTS RECOGNIZED BY THE ORGANIZATION OF AFRICAN UNITY AND/OR BY THE LEAGUE OF ARAB STATES (continued)

AGENDA ITEM 147: CONCILIATION RULES OF THE UNITED NATIONS (continued)

AGENDA ITEM 146: ADDITIONAL PROTOCOL ON CONSULAR FUNCTIONS TO THE VIENNA CONVENTION ON CONSULAR RELATIONS (continued)

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Distr. GENERAL
A/C.6/45/SR.43
23 November 1990

ORIGINAL: ENGLISH

90-57186 3159S (E)

The meeting was called to order at 10.25 a.m.

AGENDA ITEM 143: CONSIDERATION OF THE DRAFT ARTICLES ON THE STATUS OF THE DIPLOMATIC COURIER AND THE DIPLOMATIC BAG NOT ACCOMPANIED BY DIPLOMATIC COURIER AND OF THE DRAFT OPTIONAL PROTOCOLS THERETO (continued) (A/45/10)

1. The CHAIRMAN said that, as a revised version of draft resolution A/C.6/45/L.8 was in preparation, the Committee would return to the agenda item at a later meeting.

AGENDA ITEM 141: REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS TWENTY-THIRD SESSION (continued) (A/C.6/45/L.10)

2. Mr. TUERK (Austria), introducing draft resolution A/C.6/45/L.10 on behalf of its sponsors, said that Bahrain, Canada and Thailand had also become sponsors. The draft resolution expressed the General Assembly's appreciation for the valuable work being undertaken by the United Nations Commission on International Trade Law (UNCITRAL) in the field of the progressive harmonization and unification of international trade law. Drawing attention to the fourth preambular paragraph, he said that it reflected the many references made in the course of the debate on the item to the potential contribution by UNCITRAL to the United Nations Decade of International Law, particularly with regard to the dissemination of international trade law. He also drew attention to paragraphs 2, 4 and 5, and expressed the hope that the draft resolution could be adopted without a vote.

3. Draft resolution A/C.6/45/L.10 was adopted without a vote.

AGENDA ITEM 135: OBSERVER STATUS OF NATIONAL LIBERATION MOVEMENTS RECOGNIZED BY THE ORGANIZATION OF AFRICAN UNITY AND/OR BY THE LEAGUE OF ARAB STATES (continued) (A/C.6/45/L.12)

4. Mrs. SILVERA (Cuba) said that her delegation had recently joined the sponsors of draft resolution A/C.6/45/L.12, and had the honour to introduce it. Drawing attention to paragraph 2, she pointed out that many States had granted facilities, privileges and immunities in their countries to the national liberation movements in question.

5. The CHAIRMAN said that the Committee would take a decision on the draft resolution at a later meeting.

AGENDA ITEM 147: CONCILIATION RULES OF THE UNITED NATIONS (continued) (A/C.6/45/L.9)

6. Mr. VILLAGRAN KRAMER (Guatemala), introducing draft decision A/C.6/45/L.9, said that its purpose was to channel the discussion concerning the draft conciliation rules of the United Nations in the direction of the United Nations Decade of International Law and the Special Committee on the Charter. He hoped

(Mr. Villagran Kramer, Guatemala)

that at some future time the Sixth Committee could consider the various ideas on the subject which had been generated within the United Nations and by the scientific and academic community.

7. Draft decision A/C.6/45/L.9 was adopted without a vote.

AGENDA ITEM 146: ADDITIONAL PROTOCOL ON CONSULAR FUNCTIONS TO THE VIENNA CONVENTION ON CONSULAR RELATIONS (continued) (A/C.6/45/L.11)

8. Mr. TUERK (Austria), introducing draft resolution A/C.6/45/L.11 on behalf of its sponsors, drew attention to its major provisions and expressed the hope that it could be adopted without a vote.

9. Draft resolution A/C.6/45/L.11 was adopted without a vote.

The meeting rose at 10.45 a.m.

UNITED NATIONS

General Assembly

FORTY-FIFTH SESSION

Official Records

SIXTH COMMITTEE
44th meeting
held on
Monday, 19 November 1990
at 3 p.m.
New York

SUMMARY RECORD OF THE 44th MEETING

Chairman: Mr. MIKULKA (Czechoslovakia)

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AGENDA ITEM 145: REPORT OF THE COMMITTEE ON RELATIONS WITH THE HOST COUNTRY

AGENDA ITEM 138: UNITED NATIONS DECADE OF INTERNATIONAL LAW (continued)

AGENDA ITEM 136: STATUS OF THE PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 1949 AND RELATING TO THE PROTECTION OF VICTIMS OF ARMED CONFLICTS (continued)

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Distr. GENERAL
A/C.6/45/SR.44
28 November 1990

ORIGINAL: ENGLISH

90-57237 3224S (E)

The meeting was called to order at 3.20 p.m.

AGENDA ITEM 145: REPORT OF THE COMMITTEE ON RELATIONS WITH THE HOST COUNTRY (A/45/26; A/C.6/45/L.18)

1. Mr. MOUSHOUTAS (Cyprus), Chairman of the Committee on Relations with the Host Country, said that the format of the current report (A/45/26) followed the pattern established in previous years. As usual, the final chapter contained the Committee's recommendations and conclusions. With one exception, namely paragraph 69 (c), the wording of the recommendations and conclusions was identical with that used in the 1989 report.

2. The Committee had proved to be an important and effective forum in which representatives of Member States and the host country had, on the whole successfully, found ways of solving problems through a frank and constructive exchange of views.

3. Introducing draft resolution A/C.6/45/L.18, he pointed out that paragraph 8 should refer to the forty-sixth, not the forty-fifth, session of the General Assembly.

4. Mr. AHMED (Iraq) referred to his country's complaints as set forth in the Committee's report (A/45/26, chap. IV, sect. B.3). The host country's authorities had violated the Headquarters Agreement. They had refused to allow a special Iraqi aircraft carrying the Iraqi Minister for Foreign Affairs and the members of the Iraqi delegation to the forty-fifth session of the General Assembly to land in New York, thus preventing Iraq, a founding Member of the United Nations, from participating at the ministerial level and from stating its views in the General Assembly or making contact with other delegations there. It was thus not a bilateral problem between Iraq and the United States, but rather between the host country and the United Nations. His delegation had urged the host country's authorities to lift, in accordance with sections 11 and 12 of the Headquarters Agreement, the restrictions which had prevented the Iraqi Minister for Foreign Affairs from duly attending the meetings of the General Assembly and the Security Council.

5. The United States Mission had sent the Iraqi Mission a note verbale dated 21 September 1990 restricting the movements of Iraqi Mission personnel to the area within a radius of 25 miles from Columbus Circle in New York. The new restrictions contravened the letter and spirit of the relevant provisions of the Headquarters Agreement.

6. The Iraqi Mission had recently been subjected to measures which made it very difficult for it to carry out its work. The Mission's bank accounts had been frozen; subsequently, some had been unfrozen while others had remained frozen, as had that of the Iraqi news agency in the United Nations. Mission personnel had been denied multiple-entry visas. Arbitrary measures had been taken against Iraq, and no exception had been made for the Mission. Many American companies had

hesitated or refused to deal with the Mission for fear of reprisals. One such example was the refusal of New York shops to accept tax-exemption cards from Iraqi diplomats.

7. His delegation hoped that the Government of the host country would abolish all the discriminatory restrictions. It was prepared to seek a solution to those problems through the mediation of the Secretary-General, the Legal Counsel or the Chairman of the Committee on Relations with the Host Country, or through discussions with officials from the Mission of the host country. His delegation hoped that it would be treated in accordance with the Headquarters Agreement. The continuation of the discriminatory measures would affect the conduct of his Mission's work. It would also constitute a dangerous precedent: other permanent missions might be subjected to measures that were contrary to the provisions of the Headquarters Agreement.

8. Mr. TREVES (Italy), speaking on behalf of the 12 States Members of the European Community, said that, since its establishment, the Committee on Relations with the Host Country had carried out its often difficult tasks ably and effectively. Its methods of work and its composition, which took due account of the need for regional representation, were satisfactory in the view of the Twelve.

9. The Twelve appreciated the efforts made by the various bodies responsible for accommodating the interests and requirements of the diplomatic community in the host country. In that respect, they were confident that the recent visit paid to the Committee by the Mayor of the City of New York, Mr. David N. Dinkins, signalled his willingness to develop co-operation between the City and the diplomatic community.

10. Referring in particular to the question of transport and the application of traffic laws, he said that the Twelve attached importance to compliance with article IV of the Headquarters Agreement and with article 31 of the 1961 Vienna Convention on Diplomatic Relations. They expected the host country to take appropriate steps to comply fully with those obligations. Continuous vigilance and courtesy were indispensable in dealing with the delicate matters which arose in connection with the implementation of the Agreement. The Twelve considered it of great importance that questions both of principle and of practical consequence in that field should be treated with full respect for international law.

11. Mrs. SILVERA (Cuba) said that during the past 11 months, a group hostile to her Government had been holding weekly demonstrations outside the premises of the Permanent Mission of Cuba in New York. During those demonstrations, there had been repeated verbal and physical assaults on staff members and their relatives. From the general conduct of the demonstrators, including indecent exposure, it was clear that their objective was not to exercise their freedom of opinion, but to use that right as a cover for ongoing harassment of the Mission, its staff members and their relatives, regardless of age or sex.

(Mrs. Silvera, Cuba)

12. Her delegation had complained to the Secretary-General, and had informed the Committee on Relations with the Host Country of those events. The most recent incident had occurred on 25 October 1990, when a bottle had been thrown at an official leaving the Mission. Subsequently, on 1 November 1990, only a few days after the authorities had again promised to ensure that the demonstrators complied with the law, a group of agitators had begun to gather in front of the Mission at 3 p.m., remaining there until 8.30 p.m., even though their permit had authorized their presence only from 5 p.m. to 8 p.m.

13. Her delegation had repeatedly complained to the authorities, which had promised that the incidents would not recur. Immediately following each Cuban protest, greater protection had been provided, but only on a temporary basis.

14. While her delegation had reacted calmly, lawfully and responsibly, it was prepared to defend its rights and dignity if the harassment continued. In such case, full responsibility would rest with the provocateurs and with the authorities, if they failed to take the measures required by the situation.

15. The impunity with which the extremists had been acting showed that they enjoyed the tolerance, encouragement and co-operation of the authorities responsible for preventing such activities. Further proof had been provided by the behaviour of the Federal Bureau of Investigation (FBI). On 1 November 1990, instead of taking action against the provocateurs for violating their permit, the FBI agents had offered to "protect" the members of the Mission by escorting them to and from the building. The fact that such protection had been offered showed that the demonstrators had had illegal access to the Mission, outside the area authorized for the demonstration, with the full knowledge of the authorities.

16. Such conduct was blatantly incompatible with the host country's obligations under the Headquarters Agreement. She emphasized that her delegation did not object to the holding of demonstrations, so long as the demonstrators complied with the law and the authorities enforced such compliance.

17. Mr. ABOU-HADID (Syrian Arab Republic) thanked the Mission of the host country for the reply, in paragraph 53 of the report (A/45/26), to the question raised by the Observer for the Syrian Arab Republic regarding problems with the insurance of the Syrian Mission. His delegation was still in consultation with insurance companies. If it encountered any discrimination, it would return to the matter, but in the mean time it hoped that a positive solution could be found.

AGENDA ITEM 138: UNITED NATIONS DECADE OF INTERNATIONAL LAW (continued)
(A/C.6/45/L.16)

18. Mr. KOTEVSKI (Yugoslavia) introduced draft resolution A/C.6/45/L.16 on behalf of its sponsors, which also included the following countries: Belgium, Benin, Bolivia, Chile, Denmark, Ecuador, Finland, France, Germany, Guinea, Guinea-Bissau, Guyana, Italy, Japan, Madagascar, Mauritania, Mexico, Netherlands, Norway, Pakistan, Peru, Singapore, Spain, Sudan, United Kingdom, Yemen and Zambia.

(Mr. Kotevski, Yugoslavia)

19. The main purpose of the draft resolution was the adoption by the General Assembly of the programme for the activities to be commenced during the first term (1990-1992) of the United Nations Decade of International Law; that programme was annexed to the draft resolution. The text also reaffirmed the main objectives of the Decade and made provision for follow-up activities.

20. There was no doubt that the achievement of the goals of the Decade required a creative approach by States in proposing further programmes. In that connection, he drew attention to annex II to the report of the Working Group (A/C.6/45/L.5), containing a comprehensive list of suggestions proposed by States and international organizations. Intergovernmental and non-governmental organizations in the field of international law also had an important role to play in the implementation of the programmes adopted and in the development of new programmes.

21. He noted with satisfaction the preservation of the unity which had been achieved in the General Assembly in 1989 with regard to the preparations for the Decade, and the interest of the vast majority of Member States in promoting substantive activities during the Decade. It was hoped that the draft resolution could be adopted without a vote.

22. Draft resolution A/C.6/45/L.16 was adopted without a vote.

AGENDA ITEM 136: STATUS OF THE PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 1949 AND RELATING TO THE PROTECTION OF VICTIMS OF ARMED CONFLICTS (continued) (A/C.6/45/L.17)

23. Mr. EIKAAS (Norway), introducing draft resolution A/C.6/45/L.17 on behalf of the sponsors, said that it was based on General Assembly resolution 43/161, which had been adopted by consensus. Certain provisions had been updated, and some new wording had been introduced. He hoped that the draft resolution would, like previous draft resolutions on the same item, be adopted without a vote.

24. Draft resolution A/C.6/45/L.17 was adopted without a vote.

25. Ms. WILLSON (United States of America), explaining her delegation's position, said that her country was a party to the four Geneva Conventions of 1949, and had participated actively in the elaboration of the two additional Protocols of 1977. The Administration had transmitted Protocol II to the Senate, seeking advice and consent with regard to its ratification, and it was hoped that the United States would become a party to that instrument in the near future.

26. Although Protocol I contained some appropriate provisions, it also had fundamental defects which could not be eliminated either through reservations or interpretative declarations. Provisions such as article 1, paragraph 4, and article 44 undermined the basis of humanitarian law, endangered civilian populations and recognized as combatants groups which were not authorized to carry out the obligations imposed by the Government. The Protocol also contained a series of provisions which were unacceptable from the military point of view.

27. Mr. BAKER (Israel) said that his country had willingly participated in the consensus on the draft resolution, just as it had actively participated in the diplomatic conference which had led to the drafting of the two Protocols Additional to the Geneva Conventions of 1949. On the basis of genuine field experience, his delegation had been able to make a substantive contribution to that conference, and had always expressed the view that Protocol I reflected considerable progress in international humanitarian law.

28. He also acknowledged the valuable contribution made by the International Committee of the Red Cross (ICRC) within the context of international humanitarian law. A unique and close working relationship existed between ICRC and his Government, as well as with its military and administrative authorities; such a relationship was not to be found in other field situations in which ICRC functioned.

29. The effectiveness of international humanitarian law depended on perfect neutrality and complete depoliticization of the international organs dealing with it. Any attempt to utilize the 1949 Conventions or the 1977 Protocols to achieve political objectives would of necessity cause irreparable damage to the effectiveness of the instruments and of any international or other humanitarian body working to implement them.

30. As a result of political terminology and transient considerations which, regrettably, had been introduced into Protocol I, particularly in article 1, paragraph 4, his country had been unable to become a party to it. Such a politically motivated set of definitions would give rise to a series of unending claims and counter-claims concerning the applicability of the Protocol, at the expense of the due application of its genuine humanitarian provisions.

31. Similarly, the relative ease with which any group claiming to fit within the political criteria of article 1, paragraph 4, might consider itself entitled to privileges and status under the Protocol would only facilitate the activities of terrorists, whose methods and objectives were completely contradictory to any notion of humanitarian law and its underlying aims. The weakening, in article 43, of the requirements universally accepted in the Third Geneva Convention for the granting of prisoner-of-war status could only heighten the danger of the Protocol becoming a shelter for terrorist activity.

32. The fundamental condition for combatants must be their compliance with all the laws of war and other applicable rules of international law. Article 44 did not meet those conditions. The need for combatants to distinguish themselves clearly from non-combatants was vital both to genuine non-combatants and to the protection of combatants who became prisoners of war. By diluting the requirements for differentiating between combatants and civilians, article 44 indirectly but clearly intensified the danger to the lives and safety of innocent civilians.

33. Article 44 did not reflect current international law. It was an innovation towards which all States were free to determine their attitude in accordance with their own interests. The attempt to bring non-State elements within the scope of the Protocol had led to internal contradictions in the text and had undermined the

(Mr. Baker, Israel)

reciprocity of legal rights and obligations necessary for satisfactory application.

34. Some years earlier, his delegation had drawn attention to the unjust situation with regard to the emblem of his country's humanitarian agency and with regard to its national relief society. There was no justification whatsoever for the arbitrary and politically motivated withholding of recognition of the emblem and the exclusion of the society from full participation in ICRC. For those reasons, while the text of draft resolution A/C.6/45/L.17 was largely unobjectionable, his delegation would have had to abstain had it been put to a vote.

The meeting rose at 4.25 p.m.

UNITED NATIONS

General Assembly

FORTY-FIFTH SESSION

Official Records

SIXTH COMMITTEE
45th meeting
held on
Tuesday, 20 November 1990
at 10 a.m.
New York

SUMMARY RECORD OF THE 45th MEETING

Chairman: Mr. MIKULKA (Czechoslovakia)

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COMPLETION OF THE COMMITTEE'S WORK

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90-57273 3304S (E)

Distr. GENERAL
A/C.6/45/SR.45
5 December 1990
ENGLISH
ORIGINAL: SPANISH

The meeting was called to order at 10.30 a.m.

AGENDA ITEM 145: REPORT OF THE COMMITTEE ON RELATIONS WITH THE HOST COUNTRY (continued) (A/45/26; A/C.6/45/L.18)

1. Ms. WILLSON (United States of America) said that the United States was pleased to be host country to the United Nations, and took seriously its obligations towards the Organization, the missions of the various countries and their personnel. Although from time to time problems arose, either as a result of extraordinary political circumstances or as a result of those encountered in the normal course of living in a foreign environment, the United States, as host country, tried to respond in a responsible and impartial manner.

2. With regard to the statement made at the forty-fourth meeting (A/C.6/45/SR.44), she said that the President of the United States, in response to Iraq's invasion of Kuwait and pursuant to Security Council resolution 661 (1990), had ordered that all property and interests in property of the Government of Iraq in the United States, or coming in future into the control or possession of United States persons, would be blocked. In the light of United States obligations under the Headquarters Agreement, the Iraqi Mission's bank account had been immediately unfrozen, and a special licence had been issued to enable that Mission to continue its work at the United Nations. Although the account of the Iraqi news service at the United Nations remained blocked, its expenses could be paid from the Iraqi Mission's account. Neither the assets-control regulations nor the travel controls, which had been imposed for reasons of national security, in any way impeded Iraqi Mission operations or official travel by Iraqi Mission staff. With respect to the allegation that the United States Government had imposed a restriction on the Iraqi Minister for Foreign Affairs which had prevented his attendance at the forty-fifth session of the General Assembly, she said that he had never been denied permission to travel to the United States by commercial means. The United States denial of authorization for a special flight had in no way restricted the Minister's participation in the deliberations of the General Assembly. Ninety Ministers for Foreign Affairs had travelled by commercial flights to the current session of the General Assembly. Mr. Aziz's visa had been issued on 21 September 1990 in Amman, Jordan, and if he had arrived, he would have been provided appropriate security protection.

3. With regard to the concern expressed by the representative of Cuba about the security of her Mission, she said that the United States Government viewed its duty to provide for the safety and security of diplomatic missions and personnel very seriously. It must also, however, safeguard the constitutional rights of United States citizens to freely demonstrate and express their opinions in a lawful manner. When the Cuban Mission had raised concerns about the weekly demonstrations at the Mission, consultations had been held between Mission personnel and United States authorities. The results and recommendations of those discussions had been passed on to all enforcement authorities. Unfortunately, the incidents had continued. Additional consultations had been conducted, and, at the request of the Department of State, for the last two weeks agents of the Diplomatic Security

(Ms. Willson, United States)

Service and the FBI/New York City Police Department Joint Terrorist Task Force had been present during the weekly demonstrations. Those agents were prepared to intercede and make arrests if the situation warranted such action. It was her understanding that the recent demonstrations had taken place without incident. The Cuban representatives had acknowledged that law-enforcement officers on the scene had been ready and willing to personally escort Mission personnel to assure their safety.

4. Mr. S. AHMED (Iraq), speaking in exercise of the right of reply, said that at the previous meeting (A/C.6/45/SR.44), his delegation had expressed its complete willingness seek a solution to any problems that might arise, through the mediation of the Secretary-General, the Legal Counsel or the Chairman of the Committee on Relations with the Host Country. His delegation had stated the facts very clearly, and those facts had been demonstrated unequivocally; nevertheless, his delegation was prepared to collaborate in the context of the Headquarters Agreement. Situations had continued to arise which had hindered the work of his delegation and which, in addition to being contrary to the spirit of the United Nations Charter, constituted a serious violation of the Agreement and set a precedent which could also jeopardize the work of other delegations.

5. The CHAIRMAN said that the Committee had now concluded its debate on agenda item 145. He reminded members that the draft resolution on the item (A/C.6/45/L.18) had been introduced at the previous meeting by the delegation of Cyprus, and that the Committee had decided to postpone action on it until the current meeting. If he heard no objection, he would take it that the Committee wished to go along with the agreement and adopt draft resolution A/C.6/45/L.18 without a vote.

6. Draft resolution A/C.6/45/L.18 was adopted.

7. The CHAIRMAN announced that the Committee had concluded its consideration of agenda item 145.

AGENDA ITEM 143: CONSIDERATION OF THE DRAFT ARTICLES ON THE STATUS OF THE DIPLOMATIC COURIER AND THE DIPLOMATIC BAG NOT ACCOMPANIED BY DIPLOMATIC COURIER AND OF THE DRAFT OPTIONAL PROTOCOLS THERETO (continued) (A/C.6/45/L.8/Rev.1)

8. The CHAIRMAN introduced draft resolution A/C.6/45/L.8/Rev.1, and said that, if he heard no objection, he would take it that the Committee wished to adopt the draft resolution without a vote.

9. Draft resolution A/C.6/45/L.8/Rev.1 was adopted.

10. The CHAIRMAN announced that the Committee had concluded its consideration of agenda item 143.

AGENDA ITEM 140: DRAFT CODE OF CRIMES AGAINST THE PEACE AND SECURITY OF MANKIND (continued) (A/C.6/45/L.13)

AGENDA ITEM 142: REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FORTY-SECOND SESSION (continued) (A/C.6/45/L.19)

11. The CHAIRMAN said it was his understanding that the sponsors of draft resolution A/C.6/45/L.13 had withdrawn it. Thus, the Committee only had to consider draft resolution A/C.6/45/L.19, which had been submitted in connection with agenda items 140 and 142.

12. Mr. VAN DE VELDE (Netherlands) introduced draft resolution A/C.6/45/L.19, and said that the names of Bahrain, China, Guatemala, Guinea, New Zealand, Nigeria and Zaire should be added to the list of sponsors. The draft resolution reiterated several paragraphs of General Assembly resolution 44/35, of 4 December 1989, which were still useful to the structure of the resolution, and were self-explanatory.

13. He pointed out that in the third preambular paragraph, the General Assembly took note with appreciation of the work of the International Law Commission on the elaboration of a code of crimes against the peace and security of mankind, and of its report on the question of a possible international criminal jurisdiction.

14. Among the operative paragraphs, a new paragraph 2 had been included which incorporated the ideas contained in General Assembly resolution 44/35, paragraph 2 and paragraph 4 (a), bearing in mind that the current five-year term of office of the Commission's members was about to expire. In new paragraph 3, the Commission was invited to continue its work on the elaboration of the draft Code of Crimes against the Peace and Security of Mankind and to consider further and analyse the issues raised in its report on the question of international criminal jurisdiction. In that paragraph, the draft resolution adopted the formulation in General Assembly resolution 44/39, which had been proposed by the delegation of Trinidad and Tobago and other delegations. New paragraph 11, which had been incorporated during the consultations, reaffirmed the idea expressed by the Commission in paragraph 548 of its report, namely, that it should allow for two weeks of concentrated work in the Drafting Committee at the beginning of the forty-third session, and requested the Commission to report on the results of that arrangement.

15. The delegations which had taken part in the four rounds of consultations on the draft resolution had sought generally acceptable solutions, and they hoped that the draft resolution could be adopted without a vote.

16. The CHAIRMAN said that, if he heard no objections, he would take it that the Committee wished to adopt draft resolution A/C.6/45/L.19 without a vote.

17. Draft resolution A/C.6/45/L.19 was adopted.

18. Ms. WILLSON (United States of America), explaining her delegation's position on the draft resolution just adopted, said that her country had joined the consensus because of its support for the Commission and its work. Although the draft resolution contained elements which could provide the Commission with guidance for its next session, it was disappointing that a number of worthwhile suggestions concerning the Commission's working methods had not been included in the text.

19. Among the suggestions for enhancing those methods was the idea of periodic reports on the state of each topic, which had been endorsed by the Chairman of the Commission in his concluding remarks. Other suggestions had been made relating to the nature and duration of sessions. She hoped that the fact that those ideas had not been included in the draft resolutions adopted at the end of the quinquennium did not mean that the Commission would fail to consider them.

20. The Sixth Committee should not attempt to manage the Commission. Some of the suggestions made might be unworkable, while others might merely require a greater willingness to re-examine established practice. Nevertheless, the totality of the suggestions left no doubt that at its 1991 and 1992 sessions, the Commission should devote time to considering the suggestions made and the reason why so many had been made. The Commission was an enormously valuable institution, and much depended on its efficient and effective functioning.

21. The CHAIRMAN said that the Commission had concluded its consideration of agenda items 140 and 142.

AGENDA ITEM 135: OBSERVER STATUS OF NATIONAL LIBERATION MOVEMENTS RECOGNIZED BY THE ORGANIZATION OF AFRICAN UNITY AND/OR BY THE LEAGUE OF ARAB STATES (continued) (A/C.6/45/L.12)

22. THE CHAIRMAN said that, if he heard no objections, he would take it that the Committee agreed to take action at the current meeting on draft resolution A/C.6/45/L.12, which had been introduced by the delegation of Cuba at the previous meeting. He had been informed that a recorded vote had been requested on the draft resolution.

23. Mr. TREVES (Italy), speaking in explanation of vote before the vote on behalf of the 12 States members of the European Community, said that the Twelve would not vote in favour of draft resolution A/C.6/45/L.12. That was due to purely legal considerations, since none of the Twelve had signed, ratified or acceded to the 1975 Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character. He recalled that the Convention had not been adopted by consensus, and that in the 15 years which had elapsed since it had been opened for signature, only 25 ratifications or accessions and barely a few more signatures had been obtained. Consequently, in 15 years the Convention had not entered into force.

24. Accordingly, the Twelve did not deem it appropriate to attempt, through a General Assembly resolution, to enhance the status of a Convention which had not

(Mr. Treves, Italy)

found wide acceptance, especially as the principal States which hosted international organizations - among which were several States members of the European Community - had maintained that they could not agree with a number of provisions in the Convention.

25. The extremely limited participation in the debate on the item - only two delegations had taken the floor - was an indication of the Committee's lack of interest in it. Inasmuch as contrary to expectations, delegations had again been called on to vote on a draft resolution on the item, the Twelve could only express with their vote the opinion that the time was ripe for eliminating the item from the Sixth Committee's agenda.

26. Mr. BAKER (Israel) said that his delegation's hesitation with regard to draft resolution A/C.6/45/L.12 had a factual and legal basis. The Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character provided in its article 89 that it would enter into force following the deposit of the thirty-fifth instrument of ratification or accession; so far, only 26 such instruments had been received. None of the principal host States of the United Nations were among those 26 depositing States. Even more surprising was the fact that of the sponsors of the draft resolution, only Cuba, which had belatedly joined the list, was a party to the Convention.

27. Accordingly, his delegation deemed it inopportune to ask the Sixth Committee to recommend to the General Assembly the adoption of a resolution requesting States which were not parties to a convention that was not in force to implement its provisions.

28. It would be spurious for the Sixth Committee to recommend such a resolution, especially if consideration was given to the aims and intentions expressed with regard to the United Nations Decade of International Law. Moreover, he found the seventh preambular paragraph of the draft resolution to be ironic and to have no legal basis whatsoever. Accordingly, his delegation would cast a negative vote.

29. Ms. WILLSON (United States of America) said that her country would vote against draft resolution A/C.6/45/L.12. The Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character had not yet entered into force, and it would be inappropriate to claim that it applied to institutions and groups which lacked the attributes of States. Only two speakers had taken part in the debate on the item within the Committee, which clearly showed that there was a total lack of interest in the item and that it did not warrant a place on the agenda. In any case, if and when the Convention entered into force, it might be appropriate to reconsider the item.

30. A recorded vote was taken on draft resolution A/C.6/45/L.12.

In favour: Afghanistan, Albania, Algeria, Argentina, Bahamas, Bahrain, Barbados, Benin, Bolivia, Botswana, Brazil, Burkina Faso, Byelorussian Soviet Socialist Republic, Cameroon, Chile, China, Colombia, Congo, Côte d'Ivoire, Cuba, Cyprus, Djibouti, Ecuador,

Egypt, Ethiopia, Ghana, Guinea, Guinea-Bissau, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Mauritania, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Paraguay, Peru, Philippines, Qatar, Rwanda, Samoa, Saudi Arabia, Senegal, Singapore, Somalia, Suriname, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia.

Against: Belgium, France, Germany, Grenada, Israel, Italy, Luxembourg, Netherlands, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Australia, Austria, Bulgaria, Canada, Czechoslovakia, Denmark, El Salvador, Finland, Greece, Guatemala, Hungary, Iceland, Ireland, Japan, Liechtenstein, New Zealand, Norway, Papua New Guinea, Poland, Portugal, Romania, Spain, Sweden, Turkey.

31. Draft resolution A/C.6/45/L.12 was adopted by 82 votes to 10, with 24 abstentions.

32. The CHAIRMAN said that the Committee had concluded its consideration of agenda item 135.

AGENDA ITEM 137: CONSIDERATION OF EFFECTIVE MEASURES TO ENHANCE THE PROTECTION, SECURITY AND SAFETY OF DIPLOMATIC AND CONSULAR MISSIONS AND REPRESENTATIVES (continued) (A/C.6/45/L.14, L.15)

33. The CHAIRMAN, noting that the Committee had before it two draft resolutions, said that, as agreed by the sponsors of the two drafts, the Committee would first take action on draft resolution A/C.6/45/L.15.

34. Mr. KOSKENNIEMI (Finland), introducing draft resolution A/C.6/45/L.15 on behalf of its 21 sponsors, pointed out that the text was based on the corresponding resolution adopted two years earlier by the General Assembly (resolution 43/167). As compared with that resolution, the current text contained only two sets of changes: the fifth and sixth preambular paragraphs and operative paragraph 3, on the one hand; and operative paragraphs 9 and 10, on the other.

35. The first set of modifications had to do with the implications of the Iraqi aggression against Kuwait for diplomatic and consular missions and representatives of third countries in Kuwait, and for the representatives of Kuwait in Iraq. Referring specifically to the fifth preambular paragraph and to the Security Council resolutions mentioned therein, he reminded the Committee of, and quoted, the relevant provisions of those resolutions, namely, paragraph 3 of

(Mr. Koskenniemi, Finland)

resolution 664 (1990), and the second preambular paragraph and operative paragraph 1 of resolution 667 (1990).

36. Mr. M. AHMED (Iraq), speaking on a point of order, said that in referring to the Security Council resolutions, the representative of Finland was also explaining and interpreting them. Inasmuch as those resolutions were mentioned in the preamble to the draft resolution, members of the Committee could subsequently comment on them and on the text as a whole. Iraq would therefore be happy if the representative of Finland confined himself to the item and avoided questions not within the competence of the Committee.

37. Mr. KOSKENNIEMI (Finland) said that the purpose of his explanations was to make it easier for delegations to understand the text, particularly those delegations that did not have before them the Security Council resolutions referred to in the fifth preambular paragraph of the draft resolution. He had confined himself to explaining the resolutions without interpreting them; all quotations had been word for word.

38. Resuming his introduction of the draft resolution, he said that the second set of modifications - paragraphs 9 and 10 - had to do with the reporting system. With regard to paragraph 9, he read out paragraph 9 of General Assembly resolution 44/154. The purpose of paragraph 10 of the draft resolution was to ensure that the annual report of the Secretary-General would in future contain an analytical summary of country reports, including an assessment of the overall situation, if the Secretary-General deemed it appropriate.

39. Mr. TREVES (Italy), speaking in explanation of vote on behalf of the 12 States members of the European Community, said that the Twelve would vote in favour of draft resolution A/C.6/45/L.15. In view of the exceptionally grave violations of international law committed by Iraq, the Twelve had departed, at the current session, from their standard practice of not referring to specific breaches. The Twelve had made that point in the Committee on 26 September, and he quoted the relevant part of the statement (A/C.6/45/SR.6, para. 13). Accordingly, the Twelve considered it particularly appropriate to include in the draft resolution the fifth and sixth preambular paragraphs and operative paragraph 3.

40. Ms. WILLSON (United States of America) said that draft resolution A/C.6/45/L.15, as pointed out by the representative of Finland, differed from the text of the resolutions adopted in previous years. The purpose of the new provisions was to call the international community's attention to one of the most outrageous aspects of the Iraqi invasion of Kuwait, namely, the flagrant violations of international law concerning the protection of diplomatic and consular missions and representatives. The Security Council had condemned those violations. The draft resolution could hardly ignore the facts. It therefore acknowledged the efforts by the Security Council and the General Assembly to remedy the situation.

41. Her delegation continued to attach great importance to preserving the legal régime that facilitated diplomatic communication. It urged all who shared that commitment to vote for the draft resolution.

42. Mr. TETU (Canada) said that his delegation would vote in favour of draft resolution A/C.6/45/L.15. In its statement on 2 October (A/C.6/45/SR.7, para. 26), also on behalf of the delegations of Australia and New Zealand, it had pointed out that the measures taken by Iraq with regard to diplomatic and consular missions in Kuwait constituted an unacceptable violation of the most basic principles governing diplomatic relations, and of the most universally accepted norms of international law.

43. His delegation would have liked to see Iraq named in the fifth preambular paragraph and in operative paragraph 3 of the draft resolution. However, the current wording of those paragraphs would not prevent Canada from voting in favour of the text.

44. Mr. M. AHMED (Iraq), speaking in explanation of vote, said that his delegation, unlike in previous years, would vote against draft resolution A/C.6/45/L.15.

45. The resolutions on the item before the Committee had always been adopted by consensus. Iraq disagreed with the current draft resolution largely because it included references to recent Security Council resolutions and thereby incorporated a political element in its text. That discordant note did not serve the general interests of the Committee.

46. Furthermore, it emphasized a particular case, whereas there had been many other violations, as could be found from reading the relevant report of the Secretary-General (A/45/455 and Add.1). Thus, the draft resolution was being submitted in a selective manner which served the interests of certain well-defined circles. Had the sponsors avoided the references contained in the fifth preambular paragraph, the draft could have been adopted by consensus. However, the vote by Iraq against the draft resolution did not mean that it was detracting from the general aims of the text, except, of course, for the provisions to which it objected. He stressed that Iraq would continue to observe international legal norms and to comply with the obligations which it had assumed under them.

47. Mr. MUTHANA (Yemen) said that Yemen was aware of the importance of adopting measures to enhance the protection, security and safety of diplomatic and consular missions and representatives, since they strengthened co-operation among States. His delegation would vote in favour of the draft resolution, since it considered that the norms of international law governing diplomatic and consular relations must be respected. That involved no change in position by Yemen with respect to certain Security Council resolutions cited in the draft resolution. He stressed that his Government would spare no effort to co-operate in implementing measures which the international community might adopt in order to enhance the protection, security and safety of diplomatic and consular missions so that they might perform their functions in a normal manner.

48. Mr. MARTINEZ GONDRA (Argentina) said that his delegation would vote in favour of the draft resolution, which it had traditionally sponsored. The resolutions on the item generally did not refer to specific cases, whereas in the current case an allusion to Iraq was implied when reference was made to the Security Council

(Mr. Martinez Gondra, Argentina)

resolutions. In his delegation's view, that was justified in view of the serious violations of international law committed by Iraq.

49. Mr. KAWTHAR (Saudi Arabia) said that, in the past, his delegation had always voted in favour of the draft resolution on the item. He expressed his country's support for the draft resolution and approved of the inclusion of the new paragraphs contained in the preamble and the operative part.

50. Mr. AL-BAHARNA (Bahrain) said that his country would vote in favour of the draft resolution and noted that the new paragraphs concerned the violation by Iraq of diplomatic and consular immunities in Kuwait. The draft referred to resolutions of the Security Council and called for the cessation of those violations, which were at variance with the relevant international conventions.

51. A recorded vote was taken on draft resolution A/C.6/45/L.15.

In favour: Afghanistan, Albania, Algeria, Argentina, Australia, Austria, Bahamas, Bahrain, Barbados, Belgium, Benin, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Central African Republic, Chile, China, Colombia, Congo, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Luxembourg, Madagascar, Malawi, Mali, Mauritania, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Romania, Rwanda, Samoa, Saudi Arabia, Senegal, Singapore, Somalia, Spain, Suriname, Swaziland, Sweden, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe.

Against: Iraq.

Abstaining: None.

52. Draft resolution A/C.6/45/L.15 was adopted by 120 votes to 1.

53. The CHAIRMAN announced that the Committee had before it draft resolution A/C.6/45/L.14.

54. Mr. AL-SABEEH (Kuwait) said that his delegation had submitted the draft resolution in the conviction that the invasion of Kuwait on 2 August 1990 constituted a violation of international law and of the immunities of the diplomatic and consular missions in Kuwait, and also of the diplomatic and consular missions of Kuwait in Iraq. In submitting the draft resolution, Kuwait had intended to stress the need for respect of the principles of international law and the norms governing diplomatic and consular relations among States, and also to make known its concern about the acts of violence perpetuated by Iraq against the diplomatic and consular missions in Kuwait and in Iraq itself. In order not to prolong unduly the work of the Committee, and bearing in mind that the contents of draft resolution A/C.6/45/L.15 - just adopted - satisfied in part the objectives embodied in its own draft resolution, Kuwait had decided to withdraw it.

55. The CHAIRMAN announced that draft resolution A/C.6/45/L.14 had been withdrawn.

56. Mr. S. AHMED (Iraq) said he wished to place it on record that the person who had spoken a few minutes earlier represented no one. He stressed that Iraq wished effectively to maintain the protection, security and safety of the diplomatic and consular premises and staff in its territory, as it had always done. As to the missions in Kuwait City, he said that, upon announcing the union of Kuwait with Iraq, his Government had informed countries that they must transfer their missions to Baghdad, since there were no longer any reasons to maintain the missions in Kuwait.

57. Mr. AL-SABEEH (Kuwait) said that he did not want the Committee's valuable time to be wasted in useless discussions and sterile condemnations. The event in question had been the subject of clear decisions by the Security Council. It was therefore amazing that the delegate of Iraq did not recognize his status as representative of Kuwait. He did not know the source of the powers which Iraq arrogated to itself in order to close diplomatic and consular missions in Kuwait; nor did he know the norm or principle of international law on which it based such action. As for the union between Iraq and Kuwait, no one in the United Nations was convinced that the so-called unity and integration of the two countries was anything more than a fairy tale. What was clear was that Iraq had invaded Kuwait on 2 August and continued to violate international conventions, the Charter of the United Nations and the decisions of the Security Council. He urged the delegation of Iraq to refrain from fanciful interpretations.

COMPLETION OF THE COMMITTEE'S WORK

58. The CHAIRMAN announced that the Committee had concluded its consideration of the items on its agenda for the current session. He would not sum up the work, since that was a matter for the delegations themselves in the reports they would be transmitting to their respective Governments.

59. After an exchange of courtesies, in which Mr. CALERO-RODRIGUES (Brazil), Mrs. BELLAMINI-DLIMI (Tunisia), Mr. AKAY (Turkey), Mr. MOGENSEN (Denmark) and Mr. VOICU (Romania) spoke on behalf of their respective groups of States,

the CHAIRMAN declared that the Sixth Committee had completed its work for the forty-fifth session.

The meeting rose at 12.05 p.m.